



269627

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Milwaukee Solvay Coke & Gas Site
311 East Greenfield Avenue
Milwaukee, Wisconsin

American Natural Resources Company,
Cliffs Mining Company, East Greenfield
Investors, LLC, Maxus Energy Corporation,
and Wisconsin Electric Power Company and
Wisconsin Gas LLC (d/b/a We Energies),

Respondents.

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY

U.S. EPA Region 5
CERCLA Docket No.

V-W- '07-C-861

Proceeding Under Sections 104, 107 and
122 of the Comprehensive Environmental
Response, Compensation, and Liability Act,
as amended, 42 U.S.C. §§ 9604, 9607 and
9622.



TABLE OF CONTENTS

I.	JURISDICTION AND GENERAL PROVISIONS	1
II.	PARTIES BOUND	2
III.	STATEMENT OF PURPOSE	2
IV.	DEFINITIONS	3
V.	U.S.EPA FINDINGS OF FACT	5
VI.	U.S.EPA CONCLUSIONS OF LAW AND DETERMINATIONS	8
VII.	SETTLEMENT AGREEMENT AND ORDER	9
VIII.	DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS ...	9
IX.	WORK TO BE PERFORMED	11
X.	U.S. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS	15
XI.	QUALITY ASSURANCE, SAMPLING AND DATA AVAILABILITY	17
XII.	SITE ACCESS AND INSTITUTIONAL CONTROLS	19
XIII.	COMPLIANCE WITH OTHER LAWS	19
XIV.	RETENTION OF RECORDS	20
XV.	DISPUTE RESOLUTION	21
XVI.	STIPULATED PENALTIES	21
XVII.	FORCE MAJEURE	24
XVIII.	PAYMENT OF FUTURE RESPONSE COSTS	25
XIX.	COVENANT NOT TO SUE BY U.S. EPA	27
XX.	RESERVATIONS OF RIGHTS BY U.S. EPA	27
XXI.	COVENANT NOT TO SUE BY RESPONDENTS	28
XXII.	OTHER CLAIMS	30
XXIII.	CONTRIBUTION	30
XXIV.	INDEMNIFICATION	31
XXV.	INSURANCE	31
XXVI.	FINANCIAL ASSURANCE	32
XXVII.	SEVERABILITY/INTEGRATION/APPENDICES	33
XXVIII.	ADMINISTRATIVE RECORD	34
XXIX.	EFFECTIVE DATE AND SUBSEQUENT MODIFICATION.	34
XXX.	NOTICE OF COMPLETION OF WORK	35
XXXI.	TERMINATION/SURVIVAL ...	35

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("U.S. EPA") and American Natural Resources Company, Cliffs Mining Company, East Greenfield Investors, LLC, Maxus Energy Corporation, and Wisconsin Electric Power Company and Wisconsin Gas LLC (d/b/a We Energies) ("Respondents"). The Settlement Agreement concerns the preparation and performance of a remedial investigation and feasibility study ("RI/FS"), at the Milwaukee Solvay Coke & Gas Site located at 311 East Greenfield Avenue in Milwaukee, Wisconsin, and the reimbursement for certain response costs incurred or to be incurred by U.S. EPA in connection with the RI/FS.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of U.S. EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by U.S. EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further redelegated by the Regional Administrator, U.S. EPA, Region 5 to the Director, Superfund Division, U.S. EPA, Region 5 by U.S. EPA Delegation Nos. 14-14-C and 14-14-D on May 2, 1996.

3. In accordance with Section 104(b)(2) and Section 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), U.S. EPA notified the Federal and State natural resource trustees on June 23, 2005, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship. By entering into this Settlement Agreement, the Respondents do not admit that there has been any injury to natural resources. In accordance with Section 121(f)(1)(F), U.S. EPA has notified the Wisconsin Department of Natural Resources on June 23, 2005, of negotiations with potentially responsible parties regarding the implementation of the remedial investigation and feasibility study for the Site.

4. U.S. EPA and Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Settlement Agreement. Respondents agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon U.S. EPA and upon Respondents and their agents, successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement Agreement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of insolvency of any one or more Respondents or other failure of any one or more Respondents to implement the requirements of this Settlement Agreement, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors and subcontractors hired to perform the Work required by this Settlement Agreement receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondents shall be responsible for any noncompliance with this Settlement Agreement.

8. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind the Respondents to this Settlement Agreement.

III. STATEMENT OF PURPOSE

9. In entering into this Settlement Agreement, the objectives of U.S. EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site and to collect sufficient data for developing and evaluating effective remedial alternatives by conducting a Remedial Investigation ("RI") as more specifically set forth in the Statement of Work ("SOW") attached as Attachment A to this Settlement Agreement; (b) to identify and evaluate remedial alternatives that protect human health and the environment by preventing, eliminating, reducing or controlling any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Feasibility Study ("FS") as more specifically set forth in the SOW at Attachment A to this Settlement Agreement; and (c) to recover response and oversight costs incurred by U.S. EPA with respect to this Settlement Agreement.

10. The Work conducted under this Settlement Agreement is subject to approval by U.S. EPA and shall provide all appropriate and necessary information to assess site conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Respondents shall conduct all Work under this Settlement Agreement in compliance with CERCLA, the NCP and all applicable U.S. EPA guidances, policies, and procedures.

IV. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "ARARs" mean all applicable local, state, and federal laws and regulations, and all "applicable requirements" or "relevant and appropriate requirements" as defined at 40 C.F.R. § 300.5 and 42 U.S.C. § 9261(d).

b. "BFPP" shall mean a bona fide prospective purchaser as described in section 101(40) of CERCLA, 42 U.S.C. § 9601(40).

c. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

d. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

e. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXIX.

f. "EPA" or "U.S. EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

g. "Engineering Controls" shall mean constructed containment barriers or systems that control any of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

h. "Future Response Costs" shall mean all direct and indirect costs that the United States incurs after the Effective Date of this Settlement Agreement in reviewing or developing plans, reports, technical memoranda and other items pursuant to this Settlement Agreement, conducting community relations, providing technical assistance grants to community groups (if any), verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs (including fees), travel costs, laboratory costs, ATSDR costs, the costs incurred pursuant to Paragraph 53 and 55 (costs and attorney fees and any monies paid to secure access, including the amount of just compensation), and Paragraph 39 (emergency response). Future Response Costs shall also include all Interim Response Costs, and all Interest accrued on the Interim Response Costs

pursuant to 42 U.S.C. § 9607(a), up to the Effective Date of this Settlement Agreement.

i. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and restrictive covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

j. "Interest" shall mean interest at the rate specified for interest on investments of the U.S. EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

k. "Interim Response Costs" shall mean all costs, including direct and indirect costs incurred by the United States in connection with Site ID: B51Q # 01, through the Effective Date. Interim Response Costs through June 31, 2006, for Site ID: B51Q # 01, were \$64,855.66.

l. "NCP" or "National Contingency Plan" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

m. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study, the SOW, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation U.S. EPA-approved submissions. U.S. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study upon approval by U.S. EPA. In the event of conflict between this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study and any appendix, this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study shall control.

n. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

o. "Parties" shall mean U.S. EPA and Respondents.

p. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.*

q. "Respondents" shall mean American Natural Resources Company, Cliffs Mining Company, East Greenfield Investors, LLC, Maxus Energy Corporation, and Wisconsin Electric Power Company and Wisconsin Gas LLC (d/b/a We Energies).

r. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

s. "Site," solely for the purposes of the Work to be performed under this Settlement Agreement, and not with the intent to define or limit the boundaries of the Site or releases, shall mean the Milwaukee Solvay Coke & Gas Site, located at 311 East Greenfield Avenue in Milwaukee, Wisconsin and depicted generally on the map attached as Appendix B and nearby areas where hazardous substances, pollutants or contaminants have or may have migrated or come to be located from former operations or disposal at the property located at 311 East Greenfield Avenue in Milwaukee, Wisconsin.

t. "State" shall mean the Wisconsin Department of Natural Resources ("WDNR"), and any successor departments or agencies of the State.

u. "Statement of Work" or "SOW" shall mean the Statement of Work for development of an RI/FS for the Site as set forth in Appendix A to this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement as are any modifications made thereto in accordance with this Settlement Agreement.

v. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any "hazardous material" as defined under State law.

w. "Work" shall mean all activities Respondents are required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records).

V. U.S. EPA FINDINGS OF FACT

12. The Site covers approximately 46 acres in a primarily industrial and commercial area north of the Kinnickinnic River and west of the Lincoln Memorial Harbor. The Site is bordered to the north by East Greenfield Avenue, to the northeast by railroad tracks and a coal storage area, to the east and south by the Kinnickinnic River, and to the west by railroad tracks.

13. The Site is comprised of a number of lots, and various industrial activities have occurred on different lots since at least 1900, and probably as early as 1866. A manufactured coke and gas facility located on the northern portion of the Site was operated by various entities until approximately 1983. Wisconsin Wrecking operated a scrap and salvage operation on the northern portion of the Site until January 2003, when it assigned its interest in the Site to Water Street Holdings, LLC. At the same time Cliffs Mining Company conveyed the Site, via quit claim deed, to Water Street Holdings, LLC. Shortly thereafter Water Street Holdings, LLC, conveyed the Site, via quit claim deed, to Golden Marina Causeway, LLC. Most of the major

coke and gas manufacturing buildings on the northern half of the Site were demolished during the surface removal that was conducted during 2003-2005, pursuant to the Administrative Order by Consent dated February 14, 2003 (V-W-03-C-733) ("Removal Order"). Pursuant to the Removal Order the Site has been fenced and gated on three sides and warning signs have been posted.

14. On October 25, 2001, U.S. EPA, Wisconsin Department of Natural Resources (WDNR), and the City of Milwaukee conducted a site reconnaissance to evaluate site conditions to determine potential areas of contamination for sampling. From December 10-19, 2001, U.S. EPA conducted a multimedia sampling event at the Site to screen for possible contamination and identify threats to human health and the environment. Based upon the results of that sampling event U.S. EPA's contractor, Tetra Tech EM, Inc., prepared a site assessment report dated May 1, 2002 (Site Assessment), that summarized site conditions, threats to the public health or welfare or the environment, and actual or threatened releases of hazardous substances to the environment. Hazardous substances are located at the Site including: inorganics (antimony, arsenic, cadmium, chromium, copper, cyanide, lead, iron, mercury), asbestos containing material (ACM), benzene, carbazole, and polynuclear aromatic hydrocarbons (PAH) such as benzo(a)anthracene, benzo(b)fluoranthene, benzo(a)pyrene, benzo(g,h,i)perylene, benzo(k)fluoranthene, chrysene, fluoranthene, indeno(1,2,3-c,d)pyrene, phenanthrene, pyrene, and other organics (dibenzofuran and naphthalene).

15. In response to the conditions documented in the Site Assessment Report, U.S. EPA entered into the Removal Order with Cliffs Mining Company, Water Street Holdings, LLC, and Wisconsin Wrecking, LLC, to address four primary sources of hazardous substances: 1) asbestos containing material present in many of the structures, on piping inside and outside structures, and loose asbestos containing material located on the ground, 2) coal tar from the manufactured gas plant operations located in tanks, piping, on the ground, and in an open pit area; 3) numerous above ground storage tanks and associated piping containing coal tar and other residues, and 4) other hazardous substances located throughout the Site such as drums of naphthalene crystals and oil in old electrical transformers. As required by the Removal Order, a summary of the types and quantities of waste handled and shipped off-site for disposal as part of the removal action was provided to U.S. EPA by EarthTech in a final report dated March 2005. The Removal Order did not require the investigation, sampling or excavation and removal of any subsurface hazardous substances or materials. In addition, EarthTech's final report documented releases that occurred at the Site both before and during the removal action that were not addressed as part of the work under the Removal Order. For example, a historic release estimated to be less than 100 gallons, possibly of naphthalene, was observed near a pipeline under a pile of debris. On November 19, 2003, the release of an estimated 73,500 gallons of free liquid occurred during the removal of a tank. The liquid from this release was observed to have pooled and seeped into the ground surface. Surface and subsurface contamination not addressed during the removal action remains and is a source of potential exposure to humans and wildlife. In addition, runoff from the Site could contain contaminated surface soil. Various metals, cyanide, and PAHs were found in surface soils as reported in the Site Assessment. These soil contaminants could migrate off-site and enter the river at various locations. Finally, subsurface sources of hazardous substances that

were not addressed during the removal action (e.g., contaminated soil, underground tanks and associated piping), create the potential for human and wildlife exposure and off-site migration. On September 6, 2005, U.S. EPA issued a Notice of Completion of On-Site Work under Order No. V-W-03-C-733. The Notice of Completion summarized the removal actions taken at the Site, approved the post-removal site control plan proposed by the parties, and except for certain on-going obligations, closed the Removal Order.

16. Identification of the populations at risk; both human and non-human.

a. The Site is not entirely secured. Humans and wild animals can gain access to the Site and can be exposed to hazardous substances. During the Site Assessment conducted in 2001, two deer were observed inside the property. Deer may be feeding in areas that are contaminated with hazardous substances or contaminants. At several locations corrosive and hazardous substances that are capable of causing harm to exposed individuals were identified during the Site Assessment. Although a large amount of this material was removed above the ground surface during the removal, any contamination at surface level or below still remains at the Site.

b. Surface runoff from the Site can enter the river at various locations and this runoff could contain contaminated surface soil. Various metals, cyanide, and PAHs were identified in surface soils during the Site Assessment and the river sediment sample analytical results indicate that the river bottom has been negatively affected by past operations. The presence of inorganics and PAHs in the river sediment at concentrations exceeding screening levels may have a detrimental effect on sediment-associated biota, benthic species, plants and other living organisms.

17. The Site has not been proposed for inclusion on the National Priorities List ("NPL") pursuant to CERCLA Section 105, 42 U.S.C. § 9605, however, a scoring package is being prepared and the initial scoring indicates the Site would qualify for inclusion on the NPL.

18. The U.S. EPA alleges that Respondents American Natural Resources Company, Cliffs Mining Company, Maxus Energy Corporation, Wisconsin Electric Power Company and Wisconsin Gas LLC (d/b/a We Energies), or their predecessors in interest, are liable parties within the meaning of Section 107(a) of CERCLA as the former owners or operators of the Site.

19. On August 31, 2006, the Respondent East Greenfield Investors, LLC, acquired a note from Respondent Cliffs Mining Company, including the mortgage interest in the Site securing the note, and represents that it has contractually agreed to perform on behalf of Respondent Cliffs Mining Company with respect to the Work and payment obligations set forth in this Settlement Agreement. Therefore, Respondent East Greenfield Investors, LLC, has voluntarily entered into this Settlement Agreement to perform such obligations and to obtain the benefits to Respondents provided for in this Settlement Agreement. Respondent East Greenfield Investors, LLC, further represents that it intends to acquire ownership of the Site property in a manner that conforms with the requirements for it to be a bona fide prospective purchaser ("BFPP"), as defined by

section 101(40) of CERCLA, 42 U.S.C. § 9601(40), that it will comply with section 101(40) during its ownership of the Site, and thus will qualify for the protection from liability set forth in section 107(r)(1) of CERCLA, 42 U.S.C. § 9607(r)(1), with respect to the Site. Nothing in this Paragraph or Settlement Agreement shall prevent U.S. EPA from seeking legal or equitable relief to enforce this Settlement Agreement against Respondent East Greenfield Investors, LLC.

VI. U.S. EPA CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record in this matter, U.S. EPA has determined that:

20. The Milwaukee Solvay Coke & Gas Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

21. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

22. The conditions described in Section V (U.S. EPA's Findings of Fact), above, constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

23. Each Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

24. U.S. EPA alleges that Respondents American Natural Resources Company, Cliffs Mining Company, Maxus Energy Corporation, Wisconsin Electric Power Company and Wisconsin Gas LLC (d/b/a We Energies), are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622. Specifically, U.S. EPA alleges that Respondents American Natural Resources Company, Cliffs Mining Company, Maxus Energy Corporation, Wisconsin Electric Power Company, and Wisconsin Gas LLC (d/b/a We Energies), or their predecessors in interest, were "owners" and/or "operators" of the facility at the time of disposal of hazardous substances at the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

25. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

26. U.S. EPA has determined that Respondents are qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C.

§§ 9604(a) and 9622(a), if Respondents comply with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

27. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

28. Selection of Contractors, Personnel.

a. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Settlement Agreement, and before the Work outlined below begins, Respondents shall notify U.S. EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001), or equivalent documentation as determined by U.S. EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to U.S. EPA's review for verification that such persons meet minimum technical background and experience requirements. If Respondents fail to demonstrate to U.S. EPA's satisfaction that Respondents are qualified to perform properly the actions set forth in this Settlement Agreement, U.S. EPA may take over the Work required by this Settlement Agreement.

b. If U.S. EPA disapproves in writing of any person(s)' technical qualifications, Respondents shall notify U.S. EPA of the identity and qualifications of the replacement(s) within 30 days of the written notice. If U.S. EPA subsequently disapproves of the replacement(s), U.S. EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS and to seek reimbursement for costs and penalties from Respondents. U.S. EPA will indicate its bases for such subsequent disapproval in writing. During the course of the RI/FS, Respondents shall notify U.S. EPA in writing of any changes or additions in the personnel used to carry out such Work providing their names, titles, and qualifications. U.S. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

29. Within 30 days after the Effective Date, Respondents shall designate a Project

Coordinator who shall be responsible for administration of all actions by Respondents required by this Settlement Agreement and shall submit to U.S. EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. U.S. EPA retains the right to disapprove of the designated Project Coordinator. If U.S. EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify U.S. EPA of that person's name, address, telephone number and qualifications within 30 days following U.S. EPA's disapproval. Respondents shall have the right to change their Project Coordinator subject to U.S. EPA's right to disapprove. Respondents shall notify U.S. EPA 15 days before such change is made. The initial notification may be made orally, but shall be promptly followed by a written notification.

30. U.S. EPA has designated Denise Boone of the Superfund Division, Region 5 as its Project Coordinator. U.S. EPA will notify Respondents of a change in its designation of the Project Coordinator. Except as otherwise provided in this Settlement Agreement, Respondents shall direct all submissions required by this Settlement Agreement to:

Denise Boone
Remedial Project Manager
U.S. EPA, Superfund Division
Mail Code SR-6J
77 West Jackson
Chicago, Illinois 60604-3590

with copies to the State sent to:

Margaret Brunette
WDNR
2300 N. M.L. King, Jr. Dr.
Milwaukee, WI 53212

Respondents are encouraged to make their submissions to U.S. EPA and the State on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies. Respondents shall make submissions electronically according to U.S. EPA Region 5 specifications. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Settlement Agreement shall constitute receipt by Respondents. Documents to be submitted to the Respondents shall be sent to the recipients identified in Appendix C.

31. U.S. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP. In addition, U.S. EPA's Project Coordinator shall have the authority consistent with the NCP to halt any Work required by this Settlement Agreement, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to

public health or welfare or the environment. The absence of the U.S. EPA Project Coordinator from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

32. U.S. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of U.S. EPA, but not to modify the RI/FS Planning Documents or other work plans. The U.S. EPA shall require such person to perform oversight of the Work in a manner that is consistent with CERCLA and the NCP.

IX. WORK TO BE PERFORMED

33. a. Respondents shall conduct the RI/FS in accordance with the provisions of this Settlement Agreement, the SOW, CERCLA, the NCP, U.S. EPA guidance related to remedial investigations and feasibility studies including, but not limited to, the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05), Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part A), Interim Final (EPA-540-1-89-002), OSWER Directive 9285.7-01A, December 1, 1989; and Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments), Interim, (EPA 540-R-97-033), OSWER Directive 9285.7-01D, January 1998, guidances referenced in the SOW, and any RI/FS related guidance subsequently issued by U.S. EPA.

b. In the RI and FS Reports, Respondents shall address the factors required to be taken into account in Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430 of the NCP, 40 C.F.R. § 300.430. The RI shall characterize the geology and hydrogeology of the Site, determine the nature and extent of hazardous substances, pollutants or contaminants at or from the Site, and characterize all ecological zones including terrestrial, riparian, wetlands, aquatic/marine, and transitional. Respondents shall prepare, for inclusion with the RI Report, a determination of the nature and extent of the current and potential threat to the public health or welfare or the environment posed by the release or threatened release of any hazardous substances, pollutants, or contaminants at or from the Site, including a "Baseline Human Health Risk Assessment" and "Baseline Ecological Risk Assessment". In the FS Report, Respondents shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action that protect human health and the environment by recycling waste or by eliminating, reducing and/or controlling risks posed through each pathway at the Site. In the FS Report, the Respondents shall evaluate a range of alternatives including but not limited to those alternatives described in 40 C.F.R. § 300.430(e), and remedial alternatives that utilize permanent solutions and alternative treatment technologies or resource recovery technologies. The FS Report shall include a detailed analysis of individual alternatives against each of the nine evaluation criteria in 40 C.F.R. § 300.430(e)(9)(iii) and a comparative analysis that focuses upon

the relative performance of each alternative against the nine criteria in 40 C.F.R. § 300.430(e)(9)(iii). Respondents shall submit 2 copies to U.S. EPA and 1 copy to the State of all plans, reports, submittals and other deliverables required under this Settlement Agreement, the SOW and the RI/FS Planning Documents in accordance with the approved schedule for review and approval pursuant to Section X (U.S. EPA Approval of Plans and Other Submissions). Upon request by U.S. EPA or the State, Respondents shall submit in electronic form all portions of the RI and FS Reports, and any report or other deliverable Respondents are required to submit pursuant to provisions of this Settlement Agreement, including the SOW. Upon approval by U.S. EPA, all deliverables under this Settlement Agreement, including the SOW, shall be incorporated into and become enforceable under this Settlement Agreement.

34. Community Relations Plan and Technical Assistance Plan. U.S. EPA will prepare a Community Relations Plan in accordance with U.S. EPA guidance and the NCP. As requested by U.S. EPA, Respondents shall provide information supporting U.S. EPA's community relations program. Within 30 days of a request by U.S. EPA, Respondents shall provide EPA with a Technical Assistance Plan ("TAP"), for providing and administering up to \$50,000 of Respondents' funds to be used by a qualified community group to hire independent technical advisors during the Work conducted pursuant to this Settlement Agreement. The TAP shall state that Respondents will provide and administer any additional amounts needed if U.S. EPA, in its discretion, determines that the selected community group has demonstrated such a need prior to U.S. EPA's issuance of a record of decision ("ROD") for the Site. If U.S. EPA disapproves or requires revisions to the TAP, in whole or in part, Respondents shall amend and submit to U.S. EPA a revised TAP that is responsive to U.S. EPA's comments, within 30 days of receiving U.S. EPA's comments.

35. Modification of any plans.

a. If at any time during the RI/FS process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the U.S. EPA Project Coordinator within 20 days of identification. U.S. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into reports and deliverables.

b. In the event of unanticipated or changed circumstances at the Site that affect the ability to perform the Work in a timely fashion or to comply with this Settlement Agreement or the NCP, Respondents shall notify the U.S. EPA Project Coordinator by telephone within 48 hours of discovery of the unanticipated or changed circumstances. In addition to the authorities in the NCP, in the event that U.S. EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI/FS Planning Documents, U.S. EPA shall modify or amend the RI/FS Planning Documents in writing accordingly. Respondents shall perform the Work in accordance with the modified or amended RI/FS Planning Documents.

c. U.S. EPA may determine that in addition to tasks defined in the initially approved RI/FS Planning Documents, other additional Work may be necessary to accomplish the

objectives of the RI/FS as set forth in this Settlement Agreement and the SOW. U.S. EPA may require that Respondents perform these response actions in addition to those required by the initially approved RI/FS Planning Documents, including any approved modifications, if it determines that such actions are necessary for a complete RI/FS.

d. Respondents shall confirm their willingness to perform the additional Work in writing to U.S. EPA within 14 days of receipt of the U.S. EPA request. If Respondents object to any modification determined by U.S. EPA to be necessary pursuant to this Paragraph, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or RI/FS Planning Documents shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by U.S. EPA in a written modification to the RI/FS Planning Documents or written work plan supplement. U.S. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit U.S. EPA's authority to require performance of further response actions as otherwise provided in this Settlement Agreement.

36. Off-Site Shipment of Waste Material.

a. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to U.S. EPA's Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of Waste Material from all such shipments will not exceed 10 cubic yards.

b. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

c. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the remedial investigation and feasibility study. Respondents shall provide the information required by Subparagraph 36.a and 36.b as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

d. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain U.S. EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

37. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of U.S. EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at U.S. EPA's discretion and with reasonable advance notice to Respondents. The State will be given notice of and the opportunity to participate in all meetings.

38. Progress Reports. In addition to the deliverables set forth in this Settlement Agreement, Respondents shall provide to U.S. EPA and the State monthly progress reports by the 10th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall: (1) describe the actions which have been taken to comply with this Settlement Agreement during that month; (2) include hard copies and electronic copies (according to U.S. EPA Region 5 specifications), of all results of sampling and tests and all other data received by the Respondents or shall reference other submittals if the results and data were submitted to U.S. EPA under separate cover; (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion; and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

39. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Settlement Agreement including, but not limited to, the Health and Safety Plan, in order to prevent, abate, or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the U.S. EPA Project Coordinator or, in the event of his/her unavailability, the On Scene Coordinator ("OSC") or the Regional Duty Officer, U.S. EPA Region 5 Emergency Planning and Response Branch at (312) 353-2318, of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and U.S. EPA takes such action instead, Respondents shall reimburse U.S. EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release on or from the Site of a reportable quantity of a hazardous substance, as defined by 40 C.F.R. Part 302, Respondents shall immediately notify the U.S. EPA Project Coordinator, the OSC or Regional Duty Officer at (312) 353-2318, the National Response Center at (800) 424-8802, and the WDNR hotline at (800) 943-0003. Respondents shall submit a written report to U.S. EPA within 7 days after each such release, setting forth the events that occurred, the volume and type of hazardous substance released, and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. U.S. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

40. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Settlement Agreement, including the SOW, U.S. EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. Any modification of a submission by U.S. EPA shall fall within the scope and intent of this Settlement Agreement. However, U.S. EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within 30 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

41. In the event of approval, approval upon conditions, or modification by U.S. EPA, pursuant to Subparagraph 40(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other item, as approved or modified by U.S. EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by U.S. EPA. Following U.S. EPA approval or modification of a submittal or portion thereof, Respondents shall not thereafter alter or amend such submittal or portion thereof unless directed by U.S. EPA. In the event that U.S. EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 40(c) and the submission had a material defect, U.S. EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties). U.S. EPA also retains the right to perform its own studies, complete the RI/FS (or any portion of the RI/FS), and seek reimbursement from Respondents for its costs; and/or seek any other appropriate relief authorized by law.

42. Resubmission of Plans.

a. Upon receipt of a notice of disapproval, Respondents shall, within 30 days or such longer time as specified by U.S. EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 30-day period or otherwise

specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 43 and 44.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission that is independent of the deficient portion of the submission unless otherwise directed by U.S. EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties) for the deficient portion of the submission.

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving U.S. EPA approval for the following deliverables: RI/FS Work Plan/Field Sampling Plan, Quality Assurance Project Plan, Draft Remedial Investigation Report, Treatability Testing Work Plan and Sampling and Analysis Plan, and Draft Feasibility Study Report. While awaiting U.S. EPA approval on these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth in this Settlement Agreement.

d. For all remaining deliverables not enumerated above in subparagraph 42.c., Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting U.S. EPA approval on the submitted deliverable. U.S. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

43. If U.S. EPA disapproves a resubmitted plan, report or other item, or portion thereof, U.S. EPA may direct Respondents to correct the deficiencies. U.S. EPA also retains the right to modify or develop the plan, report or other item. Respondents shall implement any such plan, report, or item as corrected, modified or developed by U.S. EPA, subject only to their right to invoke the procedures set forth in Section XV (Dispute Resolution).

44. If upon resubmission, a plan, report, or item is disapproved or modified by U.S. EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or item timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and U.S. EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by U.S. EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If U.S. EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

45. In the event that U.S. EPA takes over some of the tasks, but not the preparation of the

RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by U.S. EPA into the final reports.

46. All plans, reports, and other items submitted to U.S. EPA under this Settlement Agreement shall, upon approval or modification by U.S. EPA, be incorporated into and enforceable under this Settlement Agreement. In the event U.S. EPA approves or modifies a portion of a plan, report, or other item submitted to U.S. EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement.

47. Neither failure of U.S. EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by U.S. EPA. Whether or not U.S. EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to U.S. EPA.

XI. QUALITY ASSURANCE, SAMPLING AND DATA AVAILABILITY

48. Quality Assurance. Respondents shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the SOW, the QAPP and guidances identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001), or equivalent documentation as determined by U.S. EPA.

49. Sampling.

a. All results of sampling, tests, modeling or other data (including raw data) generated by Respondents, or on Respondents' behalf, in performance of the Work during the period that this Settlement Agreement is effective, shall be submitted to U.S. EPA (in paper and electronic form according to U.S. EPA Region 5 specifications) in the next monthly progress report as described in Paragraph 38 of this Settlement Agreement. U.S. EPA will make available to Respondents validated data generated by U.S. EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondents shall verbally notify U.S. EPA and the State at least 10 days prior to conducting significant field events as described in the SOW and RI/FS Work Plan/Field Sampling Plan unless U.S. EPA agrees to a shorter time. At U.S. EPA's verbal or written request, or the request of U.S. EPA's oversight assistant, Respondents shall allow split or duplicate samples to be taken by U.S. EPA (and its authorized representatives) and the State of any samples collected by Respondents in implementing this Settlement Agreement. All split samples of Respondents shall be analyzed by the methods identified in the QAPP. Pursuant to Paragraph 49(a), U.S. EPA shall make available to Respondents the results of any split samples.

50. Data Availability.

a. At all reasonable times U.S. EPA and its authorized representatives shall have the authority to enter and freely move about all property at the Site and off-site areas where Work, if any, is being performed, for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondents and its contractor pursuant to this Settlement Agreement; reviewing the progress of Respondents in carrying out the terms of this Settlement Agreement; conducting tests as U.S. EPA or its authorized representatives deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the data submitted to U.S. EPA by Respondents. Respondents shall allow these persons to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to Work undertaken in carrying out this Settlement Agreement. Nothing herein shall be interpreted as limiting or affecting U.S. EPA's right of entry or inspection authority under federal law. All persons accessing the Site under this paragraph shall comply with all approved Health and Safety Plans.

b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to U.S. EPA and the State under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by U.S. EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to U.S. EPA and the State, or if U.S. EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents agree not to assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring. Respondents shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Respondents assert business confidentiality claims.

51. In entering into this Settlement Agreement, Respondents waive any objections to any data gathered, generated, or evaluated by U.S. EPA, the State, or Respondents in the performance or oversight of the Work that has been verified according to the quality assurance/quality control (QA/QC) procedures required by the Settlement Agreement or any U.S. EPA-approved Work Plans or Sampling and Analysis Plans. If Respondents object to any other data relating to the RI/FS, Respondents shall submit to U.S. EPA a report that specifically identifies and explains their objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to U.S. EPA within 15 days of the monthly progress report containing the data.

XII. SITE ACCESS AND INSTITUTIONAL CONTROLS

52. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by any of Respondents, such Respondents shall, commencing on the Effective Date, provide U.S. EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

53. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 30 days after the Effective Date, or as otherwise specified in writing by the U.S. EPA Project Coordinator. Respondents shall immediately notify U.S. EPA if after using their best efforts they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as U.S. EPA deems appropriate. Respondents shall reimburse U.S. EPA for all costs and attorney fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs).

54. Notwithstanding any provision of this Settlement Agreement, U.S. EPA and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

55. If Respondents cannot obtain access agreements, U.S. EPA may obtain access for Respondents, perform those tasks or activities with U.S. EPA contractors, or terminate the Settlement Agreement. In the event that U.S. EPA performs those tasks or activities with U.S. EPA contractors and does not terminate the Settlement Agreement, Respondents shall perform all other activities not requiring access to that property, and shall reimburse U.S. EPA for all costs incurred in performing such activities. Respondents shall integrate the results of any such tasks undertaken by U.S. EPA into its reports and deliverables.

XIII. COMPLIANCE WITH OTHER LAWS

56. Respondents shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

57. During the pendency of this Settlement Agreement and for a minimum of 10 years after commencement of construction of any remedial action, each Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Where a document, report or other information created or generated pursuant to the requirements of this Settlement Agreement is submitted to the U.S. EPA, drafts of such submitted documents are not required to be retained by Respondents. The obligations of this paragraph shall also not apply to drafts of records and documents if the final form of such records or documents is substantially the same and is otherwise retained by Respondents pursuant to this paragraph. The obligations of this paragraph shall not apply to electronic mail messages (i.e., email), unless such email contains, or includes as an attachment, documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement. Respondents may comply with this records retention requirement by preserving paper form of all such records and documents as true, accurate and complete copies in electronic form and disposing of the paper form of such documents. All such electronic forms must be preserved in "read only" pdf or equivalent format, and must be true, accurate and complete copies of the original documents, with all signatures included. Until 10 years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents and records of whatever kind, nature or description relating to performance of the Work or shall acquire and retain all such documents and records from their contractors and agents, and retain them pursuant to this Paragraph.

58. At the conclusion of this document retention period, Respondents shall notify U.S. EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by U.S. EPA, Respondents shall deliver any such records or documents to U.S. EPA. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide U.S. EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

59. Respondents American Natural Resources Company, Cliffs Mining Company, Maxus Energy Corporation, Wisconsin Electric Power Company and Wisconsin Gas LLC (d/b/a We Energies), hereby certify individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any

records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by U.S. EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all U.S. EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. DISPUTE RESOLUTION

60. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally in good faith negotiations.

61. If Respondents object to any U.S. EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify U.S. EPA in writing of their objection(s) within 21 days of such action, unless the objection(s) has/have been resolved informally. U.S. EPA and Respondents shall have 20 days from U.S. EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of U.S. EPA. Such extension may be granted verbally but must be confirmed in writing to be effective.

62. Any agreement reached by the Parties pursuant to this Section may be entered into orally but shall be confirmed in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an U.S. EPA management official at the Superfund Branch Chief level or higher will issue a written decision. U.S. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondents' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with U.S. EPA's decision, whichever occurs. Respondents shall proceed in accordance with U.S. EPA's final decision regarding the matter in dispute, regardless of whether Respondents agree with the decision. If U.S. EPA issues a final decision on a dispute and Respondents do not agree to perform or do not actually perform the Work in accordance with U.S. EPA's final decision, U.S. EPA reserves the right in its sole discretion to conduct the Work itself, to seek reimbursement from Respondents, to seek enforcement of the decision, to seek stipulated penalties, and/or to seek any other appropriate relief authorized by law.

XVI. STIPULATED PENALTIES

63. Respondents shall be liable to U.S. EPA for stipulated penalties in the amounts set forth in Paragraphs 64 and 65 for failure to comply with any of the requirements of this

Settlement Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Settlement Agreement or any activities contemplated under any of the RI/FS Planning Documents, work plans or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans or other documents approved by U.S. EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

64. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per day for any noncompliance identified in Subparagraph 64(b):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 300.00	1 st through 14 th day
\$ 600.00	15 th through 30 th day
\$ 1,200.00	31 st day and beyond

b. The stipulated penalties in 64.a shall accrue per day for any noncompliance with the requirements of this Settlement Agreement or the SOW, including:

i) Failure to complete and submit the Remedial Investigation Report or the Feasibility Study Report;

ii) Failure to submit timely or adequate plans, reports, technical memoranda or other written documents required by Section III (Tasks 1 through 7) of the SOW in accordance with the Schedule in Exhibit A of the SOW, including:

Task 1:	Project Scoping and RI/FS Planning Documents
Task 2:	Community Involvement and Technical Assistance Plans
Task 3:	Site Characterization
Task 4:	Remedial Investigation Report
Task 5:	Treatability Studies
Task 6:	Development and Screening of Alternatives (Technical Memorandum)
Task 7:	Detailed Analysis of Alternatives (FS Report)

iii) Failure to initiate, perform, complete, or submit any requirement in Section IX (Work to be Performed) of this Settlement Agreement;

- iv) Failure to submit monthly progress reports;
- v) Failure to meet any scheduled deadline in the Settlement Agreement or attached SOW; and
- vi) Failure to meet any other obligation or requirement, including timely payment of Future Response Costs, required by this Settlement Agreement or the SOW.

65. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity or the day U.S. EPA takes over Work pursuant to paragraph 81. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (U.S. EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after U.S. EPA's receipt of such submission until the date that U.S. EPA notifies Respondents of any deficiency; and (2) with respect to a decision by the U.S. EPA Management Official at the Superfund Branch Chief level or higher, under Paragraph 62 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the U.S. EPA management official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

66. Following U.S. EPA's determination that Respondents have failed to comply with a requirement of this Settlement Agreement, U.S. EPA will give Respondents written notification of the same and describe the noncompliance. U.S. EPA will send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether U.S. EPA has notified Respondents of a violation.

67. All penalties accruing under this Section shall be due and payable to U.S. EPA within 30 days of Respondents' receipt from U.S. EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to U.S. EPA under this Section shall be paid by check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to U.S. EPA, Superfund Program Accounting and Analysis Section, P.O. Box 70753, Chicago, Illinois 60673, shall indicate that the payment is for stipulated penalties, and shall reference the U.S. EPA Region and Site/Spill ID Number B51Q, the U.S. EPA Docket Number V-W-07-C-861, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s) shall be sent to:

Craig Melodia
Site Attorney
Office of Regional Counsel
Mail Code C-14J
77 West Jackson

Denise Boone
Remedial Project Manager
Superfund Division
Mail Code SR-6J
77 West Jackson

68. The payment of penalties shall not alter in any way Respondents' obligation to complete performance of the Work required under this Settlement Agreement.

69. Penalties shall continue to accrue as provided in Paragraph 65 during any dispute resolution period, but need not be paid until 30 days after the dispute is resolved by agreement or by receipt of U.S. EPA's decision.

70. If Respondents fail to pay stipulated penalties when due, U.S. EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 66.

71. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that U.S. EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Settlement Agreement or in the event that U.S. EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by U.S. EPA), Paragraph 81. Notwithstanding any other provision of this Section, U.S. EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

72. Respondents agree to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

73. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondents shall notify U.S. EPA orally within 5 days of when Respondents first knew that the event might

cause a delay. Within 7 days thereafter, Respondents shall provide to U.S. EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to substantially comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

74. If U.S. EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by U.S. EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If U.S. EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, U.S. EPA will notify Respondents in writing of its decision. If they disagree with this decision, Respondents will have the right to invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution). If U.S. EPA agrees that the delay is attributable to a *force majeure* event, U.S. EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF FUTURE RESPONSE COSTS

75. Payment of Future Response Costs.

a. Respondents shall pay U.S. EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, and as close to annually as practicable, U.S. EPA will send Respondents a bill requiring payment that includes Region 5's Itemized Cost Summary, which includes direct and indirect costs incurred by U.S. EPA and its contractors. Respondents shall make all payments within 30 days of receipt of each bill requiring payment. Payment shall be made to U.S. EPA by Electronics Funds Transfer ("EFT") in accordance with current EFT procedures provided below. To make payment by EFT Respondents shall: 1) complete Respondents' required bank form; 2) include Federal Reserve Bank of New York, and ABA #02103004 on the bank form; 3) include the U.S. EPA Account #68010727 on the form; and 4) include a statement identifying the name and address of the party(ies) making payment, the Site name, the U.S. EPA Region and Site/Spill ID Number B51Q, and the U.S. EPA docket number for this action.

b. At the time of payment, Respondents shall send notice that payment has been made to:

Craig Melodia
Site Attorney
Office of Regional Counsel
Mail Code C-14J
77 West Jackson
Chicago, IL 60604-3590

Denise Boone
Remedial Project Manager
Superfund Division
Mail Code SR-6J
77 West Jackson
Chicago, IL 60604-3590

c. The total amount to be paid by Respondents pursuant to Subparagraph 75.a. shall be deposited in the Milwaukee Solvay Coke & Gas Site Special Account within the U.S. EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by U.S. EPA to the U.S. EPA Hazardous Substance Superfund.

76. If Respondents do not pay Future Response Costs within 30 days of Respondents' receipt of a bill, Respondents shall pay Interest on the unpaid balance of Future Response Costs. The Interest on unpaid Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If U.S. EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 75.

77. Respondents may contest payment of any Future Response Costs under Paragraph 75 if they determine that U.S. EPA has made an accounting error or if they believe U.S. EPA incurred excess costs as a direct result of an U.S. EPA action that was inconsistent with the NCP or that certain costs are not Future Response Costs as defined by this Settlement Agreement. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the U.S. EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall within the 30 day period pay all uncontested Future Response Costs to U.S. EPA in the manner described in Paragraph 75. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Wisconsin and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the U.S. EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If U.S. EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to U.S. EPA in the manner described in Paragraph 75. If Respondents prevail

concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to U.S. EPA in the manner described in Paragraph 75. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse U.S. EPA for its Future Response Costs.

XIX. COVENANT NOT TO SUE BY U.S. EPA

78. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, U.S. EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Future Response Costs under this Settlement Agreement. This covenant not to sue shall also apply to the Respondents' parents, subsidiaries, officers, directors, members and shareholders, but only to the extent that such person's or entity's liability is based solely on its status and its capacity as a parent, subsidiary, officer, director, member or shareholder of one of the Respondents. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVIII.

XX. RESERVATIONS OF RIGHTS BY U.S. EPA

79. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

80. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. U.S. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definition of Future Response Costs;

- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site;
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site; and
- h. liability for costs incurred if U.S. EPA assumes the performance of the Work pursuant to paragraph 81.

81. Work Takeover. In the event U.S. EPA determines that Respondents have ceased implementation of any portion of the Work, are deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, U.S. EPA may assume the performance of all or any portion of the Work as U.S. EPA determines necessary. Respondents may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute U.S. EPA's determination that takeover of the Work is warranted under this Paragraph. Notwithstanding any other provision of this Settlement Agreement, U.S. EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENTS

82. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Settlement Agreement, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of the Work or arising out of the response actions for which the Future Response Costs have or will be incurred, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or
- c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Future Response

Costs.

83. Except as provided in Paragraph 86 (Waiver of Claims), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 80 (b), (c), and (e) - (g), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

84. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

85. Respondents agree not to seek judicial review of a decision to list the Site on the NPL at any time after the Effective Date of this Settlement Agreement based on a claim that changed site conditions that resulted from the performance of the Work in any way affected the basis for listing the Site.

86. Respondents agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondents with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

87. The waiver in Paragraph 86 shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Respondent. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if U.S. EPA determines:

a. that such person has failed to comply with any U.S. EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually

or in the aggregate, to the cost of response action or natural resource restoration at the Site.

88. Natural Resource Damages. For the purposes of Section 113(g)(1) of CERCLA, the parties agree that, upon issuance of this Settlement Agreement, remedial action under CERCLA shall be deemed to be scheduled and an action for damages (as defined in 42 U.S.C. § 9601(6)) must be commenced within 3 years after the completion of the remedial action (excluding operation and maintenance activities).

XXII. OTHER CLAIMS

89. By issuance of this Settlement Agreement, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents.

90. Except as expressly provided in Section XXI (Covenant Not to Sue by Respondents), and Section XIX (Covenant Not to Sue by U.S. EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

91. No action or decision by U.S. EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review except as provided for in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. CONTRIBUTION

92. a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondents are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are the Work and Future Response Costs.

b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondents have, as of the Effective Date, resolved their liability to the United States for the Work and Future Response Costs.

c. Except as provided in Section XXI of this Settlement Agreement, nothing in this Settlement Agreement precludes the United States or Respondents from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any

persons not parties to this Settlement Agreement. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

XXIV. INDEMNIFICATION

93. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action to the extent arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorney fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States to the extent based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Settlement Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

94. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents in the defense of and prior to settling such claim.

95. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work under this Settlement Agreement. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work under this Settlement Agreement.

XXV. INSURANCE

96. At least 30 days prior to commencing any On-Site Work under this Settlement Agreement, Respondents shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of \$1 million dollars, combined single limit, naming the United States as an additional insured. Within the same period, Respondents shall provide U.S. EPA with certificates of such insurance. Respondents shall submit such certificates each year on the anniversary of the Effective Date. In

addition, for the duration of the Settlement Agreement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement Agreement. If Respondents demonstrate by evidence satisfactory to U.S. EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

97. Within 60 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of U.S. EPA in the amount of \$1 million in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of U.S. EPA, issued by financial institution(s) acceptable in all respects to U.S. EPA equaling the total estimated cost of the Work;
- c. a trust fund administered by a trustee acceptable in all respects to U.S. EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to U.S. EPA, which ensures the payment and/or performance of the Work;
- e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Respondents, or by one or more unrelated corporations that have a substantial business relationship with at least one of Respondents; including a demonstration that any such company satisfied the financial test requirements of 40 C.F.R. § 264.143(f);
- f. a corporate guarantee to perform the Work by one or more of Respondents, including a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. § 143(f); and/or
- g. any other financial mechanism acceptable to and approved by U.S. EPA.

98. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to U.S. EPA, determined in U.S. EPA's sole discretion. In the event that U.S. EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are

inadequate, Respondents shall, within 30 days of receipt of notice of U.S. EPA's determination, obtain and present to U.S. EPA for approval one of the other forms of financial assurance listed in Paragraph 97, above. In addition, if at any time U.S. EPA notifies Respondents that the anticipated cost of completing the Work has increased significantly beyond the current cost estimate, then, within 30 days of such notification, which shall include the amount of the anticipated cost increase, Respondents shall obtain and present to U.S. EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

99. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 97.e. or 97.f. of this Settlement Agreement, Respondents shall (i) demonstrate to U.S. EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. § 264.143(f) annually, on the anniversary of the Effective Date, to U.S. EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. § 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of \$1 million for the Work at the Site shall be used in relevant financial test calculations.

100. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work had diminished below the amount set forth in Paragraph 97 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to U.S. EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from U.S. EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution) and may reduce the amount of security in accordance with U.S. EPA's written decision resolving the dispute.

101. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by U.S. EPA, provided that U.S. EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. SEVERABILITY/INTEGRATION/APPENDICES

102. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Respondents have sufficient cause not to comply with one or more provisions of this Settlement Agreement, Respondents shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or determined to be subject to a

sufficient cause defense by the court's order.

103. This Settlement Agreement, its appendices, and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the SOW.

"Appendix B" is the map of the Site.

"Appendix C" is the notice recipient(s) for each Respondent.

XXVIII. ADMINISTRATIVE RECORD

104. U.S. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to U.S. EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of U.S. EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of U.S. EPA, Respondents shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Respondents and state, local or other federal authorities concerning selection of the response action. At U.S. EPA's discretion, Respondents shall establish a community information repository at or near the Site, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

105. This Settlement Agreement shall be effective five (5) days after the Settlement Agreement is signed by the Director of the Superfund Division or his/her delegatee. For purposes of computing the Effective Date, where the fifth day after signature would fall on a Saturday or Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

106. This Settlement Agreement may be amended by mutual agreement of U.S. EPA and Respondents. Amendments shall be in writing and shall be effective when signed by U.S. EPA. U.S. EPA Project Coordinators do not have the authority to sign amendments to the Settlement

Agreement.

107. No informal advice, guidance, suggestion, or comment by the U.S. EPA Project Coordinator or other U.S. EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXX. NOTICE OF COMPLETION OF WORK

108. When U.S. EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to payment of Future Response Costs and record retention, U.S. EPA will provide written notice to Respondents. Respondents may submit a written request to U.S. EPA for a determination that the Work has been so completed. U.S. EPA shall respond in writing to Respondents' request. If U.S. EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, U.S. EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI/FS Planning Documents or other work plan if appropriate in order to correct such deficiencies. Respondents shall implement the modified and approved RI/FS Planning Documents or other approved work plan and shall submit the required deliverable(s) in accordance with the U.S. EPA notice. Failure by Respondents to implement the approved modified RI/FS Planning Documents or other work plan shall be a violation of this Settlement Agreement.

XXXI. TERMINATION/SURVIVAL

109. Upon receipt of the Notice of Completion of Work from U.S. EPA, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to the covenants not to sue by U.S. EPA and Respondents, the payment of Future Response Costs and record retention, this Settlement Agreement shall be deemed terminated.

The Undersigned Party enters into this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study in the matter of the Milwaukee Solvay Coke & Gas Site.

Agreed this 23rd day of January, 2008. 7

For Respondent American Natural Resources Company

Signature: Robert W. Baker

Name: Robert W. Baker

Title: Executive Vice President and General Counsel

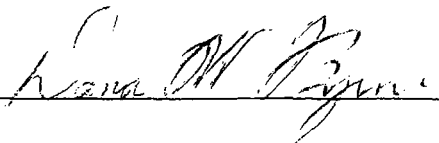
Address: 1001 Louisiana Street

Houston, TX 77002

The Undersigned Party enters into this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study in the matter of the Milwaukee Solvay Coke & Gas Site.

Agreed this 12th day of December, 2006.

For Respondent Cliffs Mining Company

Signature: 

Name: Dana W. Byrne

Title: Vice President - Public Affairs

Address: Suite 1500

1100 Superior Avenue

Cleveland, OH 44114

The Undersigned Party enters into this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study in the matter of the Milwaukee Solvay Coke & Gas Site.

Agreed this 2 day of Jan ²⁰⁰⁷ ~~2006~~.

For Respondent East Greenfield Investors LLC

Signature: Laurence Fromelius

Name: LAURENCE FROMELIUS

Title: PRINCIPAL

Address: P.O. 72

Lemont IL

60439

The Undersigned Party enters into this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study in the matter of the Milwaukee Solvay Coke & Gas Site.

Agreed this 3rd day of January, ~~2006~~ 2007

For Respondent Maxus Energy Corporation

Signature: M. G. Smith

Name: M. G. Smith

Title: Vice President

Address: 1330 Lake Robbins Drive

Suite 400

The Woodlands, TX 77380

The Undersigned Party enters into this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study in the matter of the Milwaukee Solvay Coke & Gas Site.

Agreed this 15th day of DECEMBER, 2006.

For Respondent _____

Signature: _____

Name: _____

Title: _____

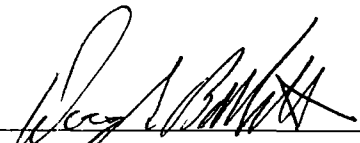
Address: _____

Sally R Bentley
Sally R. Bentley

Ass't Vice President - Legal Services
for Wisconsin Electric Power Co. and

Wisconsin
Gas LLC

It is so ORDERED AND AGREED this 26th day of January, 2007

BY:  DATE: 1/26/07
for Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

EFFECTIVE DATE: 1/31/07

APPENDIX A

Milwaukee Solvay Coke & Gas Site

STATEMENT OF WORK

APPENDIX A

STATEMENT OF WORK FOR A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY AT THE SOLVAY COKE AND GAS SITE MILWAUKEE, WISCONSIN

I. PURPOSE:

This Statement of Work (SOW) sets forth the requirements for conducting a Remedial Investigation and Feasibility Study (RI/FS) at the Solvay Coke and Gas Site in Milwaukee, Wisconsin (Site). The Site is located at 311 East Greenfield Avenue in Milwaukee, Wisconsin (see Figure 1) and nearby areas where hazardous substances, pollutants or contaminants have or may have migrated or come to be located from former operations or disposal at the property located at 311 East Greenfield Avenue in Milwaukee, Wisconsin. The Site is approximately 46 acres in a primarily industrial and commercial area north of the Kinnickinnic River and west of the Lincoln Memorial Harbor. The Site is bordered by East Greenfield Avenue to the north, railroad tracks and a coal storage area to the northeast, the Kinnickinnic River to the east and south, and railroad tracks to the west. Grede Foundries, Inc., is located west of the Site across the railroad tracks. Residential areas are located within 0.5 mile of the Site along 1st, 2nd, and 3rd Streets. The RI Report shall fully evaluate the nature and extent of hazardous substances, pollutants or contaminants at or from the Site. The RI Report shall also assess the risk which these hazardous substances, pollutants or contaminants present for human health and the environment. The RI Report shall provide sufficient data to develop and evaluate effective remedial alternatives. The FS Report shall evaluate alternatives for addressing the impact to human health and the environment from hazardous substances, pollutants or contaminants at the Site.

The RI/FS shall comply with applicable requirements and guidance for RI/FS studies and reports, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601, et. seq., and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, as amended. At a minimum, the Respondents shall prepare and complete the RI and FS Reports consistent with the *Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA* (EPA/540/G-89/004, October 1988) (RI/FS Guidance), and any other guidance that the United States Environmental Protection Agency (U.S. EPA) uses in conducting or submitting deliverables for a RI/FS, as well as any additional requirements in the Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study (AOC). The RI/FS Guidance describes the report format and the required report content. Numerical references to the appropriate sections of the

RI/FS Guidance follow the section headings throughout this SOW. Exhibit A sets forth a partial list of guidance used by U.S. EPA for an RI/FS.

The Respondents shall furnish all personnel, materials, and services necessary for, or incidental to, performing the RI/FS at the Site, except as otherwise specified herein.

As specified in CERCLA Section 104(a) (1), as amended by SARA, U.S. EPA will provide oversight of the Respondents' activities throughout the RI/FS, including all field sampling activities. *The Respondents shall support U.S. EPA's initiation and conduct of activities related to the implementation of oversight activities.*

At the completion of the RI/FS, U.S. EPA will be responsible for the selection of a Site remedy and will document this selection in a Record of Decision (ROD). The remedial action selected by EPA will meet the cleanup standards specified in CERCLA Section 121.

That is, the selected remedial action will be protective of human health and the environment, will be in compliance with, or include a waiver of, applicable or relevant and appropriate requirements of other laws, will be cost-effective, will use permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable, and will address the statutory preference for treatment as a principal element. The final RI and FS Reports as adopted by U.S. EPA will, with the administrative record, form the basis for the selection of the Site's remedy and will provide the information necessary to support the development of the ROD.

II. DOCUMENT REVIEW

The Respondents shall submit all documents or deliverables required as part of this SOW to the U.S. EPA, with a copy to the Wisconsin Department of Natural Resources (WDNR), for review and approval by U.S. EPA. After review of any plan, report or other item which is *required to be submitted for approval pursuant to this AOC*, U.S. EPA, *after reasonable opportunity for review and comment by the WDNR*, may:

- (a) Approve, in whole or in part, the submission;
- (b) Require revisions to the submission;
- (c) Modify the submission;
- (d) Disapprove, in whole or in part, the submission; or
- (e) Any combination of the above to conform the submission to the requirements of the AOC, SOW, NCP or U.S. EPA guidance.

The Respondents and U.S. EPA will utilize informal communications, whenever appropriate, to minimize the possibility of submitting inadequate work plans, reports, and report revisions. If U.S. EPA requires revisions, the Respondents shall submit a revised submission incorporating all of U.S. EPA's required revisions within at least 30 calendar

days of receipt of U.S. EPA's notification of the required revisions. The U.S. EPA may grant an extension with a written request from the Respondents.

Groundwater Elevation and Optimization System (GEOS) is a new data management system being used by the Superfund Division of EPA Region 5 that will allow the Respondents to submit Superfund data electronically. All data collected after the Effective Date of the AOC shall be submitted on a 3.5" diskette, a ZIP™ or ZIP™ compatible disk, or a CD. As specified elsewhere in this SOW, regularly required hard copies of all reports and data summaries will also be sent to the attention of the EPA Remedial Project Manager (RPM) and WDNR Project Manager. However, in addition, the electronic data must also be submitted on the 3.5" diskette, a ZIP™ or ZIP™ compatible disk, or a CD to the following address, with a cover letter:

GEOS Data Coordinator
United States EPA (SR-6J)
77 West Jackson Blvd.
Chicago, IL 60604

The cover letter should include:

- Site name, data collection dates, and contact person;
- Explanations about any errors detected and about any revisions to data submitted previously; and
- Any proposed additions to the list of valid values.

The EPA RPM and the WDNR Project Managers should also receive a copy of the cover letter.

All of the electronic data requirements are specified at:
<http://www.epa.gov/region5/superfund/edman>

The Respondents can download the Superfund Electronic Data Deliverable Specification Manual from that website.

III. SCOPE

The Respondents shall complete the following tasks as part of this RI/FS:

- Task 1: Project Scoping and RI/FS Planning Documents
- Task 2: Community Involvement Support and Technical Assistance Plan
- Task 3: Site Characterization

- Task 4: Remedial Investigation Report
- Task 5: Treatability Studies
- Task 6: Development and Screening of Alternatives (Technical Memorandum)
- Task 7: Detailed Analysis of Alternatives (FS Report)
- Task 8: Progress Reports

TASK 1: PROJECT SCOPING AND RI/FS PLANNING DOCUMENTS

Site Background

The Respondents shall gather and analyze the existing Site background information and shall conduct a Site visit to assist in planning the scope of the RI/FS.

1. Collect and Analyze Existing Data and Submit Technical Letter Report

Before planning the RI/FS activities, the Respondents shall thoroughly compile and review all existing Site data. Specifically, this includes data relating to the varieties and quantities of hazardous substances, pollutants and contaminants at the Site, past disposal practices, and the results of previous sampling activities. An analysis shall be provided concerning groundwater, surface water, soil, air, and sediment data available from all previous studies conducted at the Site, and what data may indicate regarding contamination found at the Site. Examples of existing information about the Site include previous Site Assessment Reports, Sampling Reports and Removal Reports. This data compilation and analysis described herein shall be submitted to EPA and WDNR in the form of a Technical Letter Report. A preliminary Conceptual Site Model (CSM) of the site will also be developed for inclusion in the Technical Letter Report, and will include potential migration and exposure pathways, potential current and future human health and ecological receptors, and identification of incomplete and potentially complete exposure pathways.

This Technical Letter Report shall be submitted to EPA and WDNR within thirty (30) days of the effective date of the Order. This letter report will provide the aforementioned synopsis of available data and identify potential data gaps to be addressed by the forthcoming RI/FS work plan, as described above. This Technical Letter Report serves to assist the Respondents, EPA, and WDNR in the specifications and planning for the RI/FS work.

2. Conduct Site Visit and Scoping Meeting

Within 30 days, after submittal of the Technical Letter Report, the Respondents shall schedule and lead a tour of the Site for U.S. EPA and WDNR. The technical scoping meeting will be synchronized with the Site tour. The Site tour and scoping

meeting will be used to develop a better understanding of the Site, and focus on the sources and the areas of contamination, as well as potential exposure pathways and receptors at the Site. During the Site visit, the Respondents shall observe, to the extent possible, the site's physiography, hydrology, geology, and demographics, as well as natural resource, ecological and cultural features. The Respondents shall coordinate this visit with the U.S. EPA Remedial Project Manager.

3. **RI/FS Planning Documents (Work Plan/Field Sampling Plan/QAPP)**

(A) General Requirements

Within ninety (90) calendar days after the Scoping Meeting, the Respondents shall submit draft RI/FS Planning Documents (including Work Plan/Field Sampling Plan, Quality Assurance Project Plan, and Health and Safety Plan) to U.S. EPA for review and/or approval pursuant to **Section II Document Review**.

The objective of the RI/FS Planning Documents is to develop an RI/FS strategy and general management plan that accomplishes the following:

- A remedial investigation that fully determines the nature and extent of the release or threatened release of hazardous substances, pollutants, or contaminants at and from the Site. In performing this investigation, the Respondent shall gather sufficient data, samples, and other information to fully characterize the nature and extent of the contamination at the Site, to support the human health and ecological risk assessments, and to provide sufficient data for the identification and evaluation of remedial alternatives for this Site.
- A feasibility study that identifies and evaluates alternatives for the appropriate extent of remedial action to prevent or mitigate the migration or the release or threatened release of hazardous substances, pollutants, or contaminants at and from the Site.
- When scoping the specific aspects of the project, the Respondent shall meet with U.S. EPA to discuss all project planning decisions and special concerns associated with the Site.
- The RI/FS Planning Documents shall include a detailed description of the tasks the Respondent shall perform, the information needed for each task, a detailed description of the information the Respondent shall produce during and at the conclusion of each task, and a description of the work products that the Respondent shall submit to U.S. EPA and WDNR. This includes the deliverables set forth in this SOW; a schedule for each of the required activities consistent with

the RI/FS Guidance and other relevant guidance; and a project management plan including a data management plan (e.g., requirements for project management systems and software, minimum data requirements, requirements for submittal of electronic data, data format and backup data management), monthly reports to U.S. EPA and WDNR, and meetings and presentations to U.S. EPA and WDNR at the conclusion of each major phase of the RI/FS. The Respondent shall refer to Appendix B of the RI/FS Guidance for a description of the required contents of the RI/FS Planning Documents.

- The RI/FS Planning Documents shall include the preliminary objectives for the remedial action at the Site; preliminary potential state and federal ARARs (chemical-specific, location-specific and action-specific); a description of the Site management strategy developed by the Respondents and U.S. EPA during scoping; a preliminary identification of remedial alternatives; and data needs for fully characterizing the nature and extent of the contamination at the site, evaluating risks and developing and evaluating remedial alternatives. The RI/FS Planning Documents shall reflect coordination with treatability study requirements, if any. The RI/FS Planning Documents shall also include a process for and manner of refining and/or identifying additional Federal and State ARARs, and for preparing the human health and ecological risk assessments and the feasibility study.

(B) Specific Requirements

The Respondents shall develop the RI/FS Planning Documents as described in "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," October, 1988 and shall include:

i. Site Background

The Site Background section shall include a brief summary of the Site location, description, physiography, hydrology, geology, demographics, ecological, cultural and natural resource features, Site history, description of previous investigations and responses conducted at the Site by local, state, federal, or private parties, and Site data evaluations and project planning completed during the scoping process.

The Site background section shall discuss areas of waste handling and disposal activities, the locations of existing groundwater monitoring wells, if any, and previous surface water, sediment, soil, groundwater, and air sampling locations. The Site Background section shall include a summary description of available data and identify areas where hazardous

substances, pollutants or contaminants were detected and the detected levels. The Site Background section shall include tables displaying the minimum and maximum levels of detected hazardous substances, pollutants or contaminants in Site areas and media.

ii. Work Plan/Field Sampling Plan

The Work Plan/Field Sampling Plan (FSP) portion of the RI/FS Planning Documents shall be prepared to ensure that sample collection and analytical activities are conducted in accordance with technically acceptable protocols and that the data meet the Site-specific Data Quality Objectives. All sampling and analyses performed shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. The Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance.

Upon request by U.S. EPA, the Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. The Respondents shall provide U.S. EPA with the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis. The Respondents shall also ensure the provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, *Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites*.

Upon request by U.S. EPA, the Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by the Respondents or their contractors or agents. The Respondents shall notify U.S. EPA not less than 7 business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

iii. Data Gap Description/Data Acquisition

As part of the FSP, the Respondents shall incorporate knowledge gained from preparation of the Technical Letter Report using currently available data. The Respondents then shall identify those areas of the Site and nearby areas that require data and evaluation in order to define the extent of hazardous substances, pollutants or contaminants. This Section of the FSP shall include a description of the number, types, and locations of samples to be collected. The FSP shall include an environmental program to accomplish the following:

- Site Reconnaissance:

The Respondents shall conduct site surveys which may include, but is not limited to: property, boundary, utility rights-of-way, surface cover, and topographic information; land surveys; topographic mapping; and field screening.

- Geological Investigations (Soils and Sediments)

The Respondents shall conduct geological investigations to determine the extent of hazardous substances, pollutants or contaminants in surface soils, subsurface soils and sediments at the Site which may include, but is not limited to surficial soil samples, subsurface soil samples, soil boring and permeability sampling, sediments samples, survey soil gases, test pits, and identifying real-world horizontal, vertical, and elevation coordinates for all samples and site features in accordance with U.S. EPA Region 5 electronic data requirements.

- Air Investigations

The Respondents shall conduct air investigations to determine the extent of air-borne asbestos at and from the Site which may include, but is not limited to: air sampling, establishment of air monitoring stations, and preparation of wind roses.

- Hydrogeological Investigations (Ground Water)

The Respondents shall conduct hydrogeological investigations of ground water to determine the horizontal and vertical distribution of hazardous substances, pollutants or contaminants in the groundwater and the extent, fate and transport of any groundwater plumes containing hazardous substances, pollutants or contaminants. The hydrogeological investigation may include, but is not limited to: installation of well systems, samples from upgradient, downgradient, private wells, samples during drilling (e.g., HydroPunch or Equivalent), hydraulic tests (such as pump tests, slug tests and grain size analyses), measuring ground-water elevations and determine horizontal and vertical sample locations in accordance with U.S. EPA Region 5 electronic data requirements, modeling, determination of the direction of local groundwater flow, and the identification of the local uses of groundwater including the number, location, depth and use of nearby private and municipal wells within 1/2 mile of the site boundary.

- Conduct Hydrogeological Investigations (Surface Water and Sediment)

The Respondents shall conduct hydrogeological investigations to determine the nature and extent of contamination of surface water from the Site. The hydrogeological investigation may include, but is not limited to: collection of surface water samples, measurement of the surface-water elevation, and collection of sediment samples including the collection of bioavailability data.

- Waste Investigation

The Respondents shall characterize the waste materials at the Site. As appropriate, Respondents shall conduct the following activities as part of these waste investigations:

- Collect samples (Gas, Liquid, and Solid)
- Dispose of Derived waste (Gas, Liquid, and Solid)

- Conduct Geophysical Investigation

The Respondents shall conduct geophysical investigations to delineate waste depths, thicknesses and volume; the elevations of the underlying natural soil layer and the extent of cover over fill areas. The geophysical investigation may include the following techniques, as appropriate:

- Surface Geophysical Activity
- Magnetometer
- Electromagnetic
- Ground-Penetrating Radar
- Resistivity
- Remote Sensor Survey
- Test Pits, trenches and soil borings

- Conduct Ecological Investigation

Using U.S. EPA guidance, the Respondents shall conduct ecological investigations to assess the impact to aquatic and terrestrial ecosystems from the disposal, release and migration of hazardous substances, pollutants or contaminants at the Site including, as appropriate:

- Wetland and Habitat Delineation

- Wildlife Observations
 - Community Characterization
 - Identification of Endangered Species
 - Biota Sampling and Population Studies
- Dispose of Investigation-Derived Waste.

The Respondents shall characterize and dispose of investigation-derived wastes in accordance with local, State, and Federal regulations as specified in the FSP (see the Fact Sheet, *Guide to Management of Investigation-Derived Wastes*, 9345.3-03FS (January 1992)).

- Evaluate and Document the Need for Treatability Studies

If the Respondents or U.S. EPA identify remedial actions that involve treatment, the Respondent shall include treatability studies as outlined in Task 5 (see page 18) of this SOW unless the Respondents satisfactorily demonstrates to U.S. EPA that such studies are not needed. When treatability studies are needed, the Respondents shall plan initial treatability testing activities (such as research and study design) to occur concurrently with Site characterization activities if possible but prior to the FS.

iv. **Quality Assurance Project Plan (QAPP)**

The Respondents shall prepare a QAPP that is site specific and covers sample analysis and data handling for samples collected during the RI, based on the Administrative Order on Consent and guidance provided by U.S. EPA.

The Respondents shall prepare the QAPP in accordance with "EPA Requirements of Quality Assurance Project Plans (QA/R-5)" (EPA/240/B-01/003, March 2001) and "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998).

The Respondents shall demonstrate, in advance to U.S. EPA's satisfaction, that each laboratory it may use is qualified to conduct the proposed work. This includes use of methods and analytical protocols for the chemicals of concern in the media sampled within detection and quantification limits consistent with both QA/QC procedures and data quality objectives (DQOs) approved in the FSP and QAPP for the Site by U.S. EPA. The laboratory must have and follow an approved QA program. If a laboratory not in the CLP is selected, methods consistent with CLP methods (including U.S. EPA approved SW-846 methods) would be used at this Site for the purposes proposed. QA/QC procedures approved by U.S. EPA shall be

used. The Respondents shall only use laboratories which have a documented Quality Assurance Program which complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995) and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01-002, March 2001) or equivalent documentation as determined by U.S. EPA.

The Respondents shall participate in a pre-QAPP meeting or conference call with U.S. EPA. The purpose of this meeting or conference call is to discuss QAPP requirements and obtain any clarification needed to prepare the QAPP.

v. Health and Safety Plan

The Respondents shall prepare a Health and Safety Plan that conforms to their health and safety program and complies with the Occupational Safety and Health Administration (OSHA) regulations and protocols outlined in Title 29 of the Code of Federal Regulations (CFR), Part 1910. The Health and Safety Plan shall include the 11 elements described in the RI/FS Guidance such as a health and safety risk analysis, a description of monitoring and personal protective equipment, medical monitoring, and Site control. U.S. EPA does not "approve" the Respondents' Health and Safety Plan, but rather U.S. EPA reviews it to ensure that all the necessary elements are included, and that the plan provides for the protection of human health and the environment, and after that review provides comments as may be necessary and appropriate. The safety plan must, at a minimum, follow the U.S. EPA's guidance document *Standard Operating Safety Guides* (Publication 9285.1-03, PB92-963414, June 1992).

TASK 2: COMMUNITY RELATIONS SUPPORT AND TECHNICAL ASSISTANCE PLAN

U.S. EPA has the responsibility of developing and implementing community relations activities for the Site. The critical community relations planning steps performed by U.S. EPA and WDNR include conducting community interviews and developing a Community Relations Plan. Although implementing the Community Relations Plan is the responsibility of U.S. EPA, the Respondents, if directed by U.S. EPA, shall assist by providing information regarding the Site's history; participating in public meetings; assisting in preparing fact sheets for distribution to the general public; or conducting other activities approved by U.S. EPA. All Respondent-conducted community relations activities shall be planned and developed in coordination with U.S. EPA.

In addition to the community relations activities, within 30 days of a request by EPA, Respondent(s) shall provide EPA with a Technical Assistance Plan (TAP) for providing and administering up to \$50,000 of Respondent(s)' funds to be used by a

qualified Community Group to hire independent technical advisors during the Work conducted pursuant to this Consent Order. Respondent(s) also will provide and administer any additional amounts needed if EPA, in its discretion, determines that the Community Group has demonstrated such a need prior to EPA's issuance of the ROD contemplated by this Order. The Community Group will use these funds:

(1) To hire a technical advisor(s), independent from the Respondent, who can help group members understand site cleanup issues. The technical advisor(s) will help interpret and comment on Site-related documents developed under this SOW and through EPA's issuance of the Record of Decision (ROD) based upon the RI/FS conducted pursuant to this SOW.

(2) To share this information with others in the community.

To qualify for TAP assistance, a Community Group shall be: 1) comprised of people who are affected by a release or threatened release at the Site and 2) able to demonstrate its ability to adequately and responsibly manage TAP responsibilities. A group is ineligible if it is: 1) a potentially responsible party (PRP) at the Site, represents such a PRP, or receives money or services from a PRP; 2) affiliated with a national organization; 3) an academic institution; 4) a political subdivision; 5) a tribal government; or 6) a group established or presently sustained by any of the entities listed above or if members of the group represent any of these entities. TAP assistance may be awarded to only one qualified group at a time for purposes of this Consent Order and Statement of Work

TASK 3: SITE CHARACTERIZATION

1. Investigate and Define Site Physical and Biological Characteristics

The Respondents shall collect data on the physical and biological characteristics of the site and its surrounding areas including the physiography, geology, and hydrology, and specific physical characteristics identified in the work plan. This information will be ascertained through a combination of physical measurements, observations, and sampling efforts and will be utilized to define potential transport pathways and human ecological receptor populations. In defining the site's physical characteristics the Respondents will also obtain sufficient engineering data (such as pumping characteristics) for the projection of contaminant fate and transport, and development and screening of remedial action alternatives, including information to assess treatment technologies.

The Respondents shall provide the RPM and WDNR or the entity designated by the RPM with a paper copy and an electronic copy (according to U.S. EPA Region V format specification) of validated laboratory data not later than 120 days after samples are shipped for analysis. In addition, the monthly progress reports will

summarize field activities, problems encountered, solutions to problems, and upcoming field activities.

2. Define Sources of Contamination

Respondent will identify source areas that are contributing to contamination at or from the Site that may cause human or ecological exposures above acceptable risk levels. Respondents shall determine the areal extent and depth of contamination pursuant to an approved sampling scheme. Respondents shall determine the physical characteristics and chemical constituents and their concentrations for each source of contamination as necessary to evaluate human and ecological risks. The Respondents shall conduct sufficient sampling to define the boundaries of the contaminant sources to the level established in the QAPP and DQOs. Defining the source of contamination may include analyzing the potential for contaminant release (e.g., long term leaching from soil), contaminant mobility and persistence, and characteristics important for evaluating remedial actions, including information to assess treatment technologies.

3. Describe the Nature and Extent/Fate and Transport of Contamination

The Respondents shall gather information to describe the nature and extent of contamination as a final step during the field investigation. To describe the nature and extent of contamination, the Respondents will utilize the information on site physical and biological characteristics and sources of contamination to give a preliminary estimate of the contaminants that may have migrated. The Respondents will then implement an iterative monitoring program and any study program identified in the work plan or sampling plan such that by using analytical techniques sufficient to detect and quantify the concentration of contaminants, the migration of contaminants through the various media at site can be determined. In addition, the Respondents shall gather data for calculations of contaminant fate and transport. This process is continued until the area and depth of contamination are known to the level of contamination established in the QAPP and DQOs.

4. Evaluate Site Characteristics

The Respondents shall analyze and evaluate the data to describe: (1) site physical and biological characteristics, (2) contaminant source characteristics, (3) nature and extent of contamination and (4) contaminant fate and transport. Results of the site physical characteristics, source characteristics, and extent of contamination analyses are utilized in the analysis of contaminant fate and transport. The Respondents shall evaluate the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination as well as mobility and persistence of contaminants. Where modeling is appropriate, such models shall be identified to EPA in a technical memorandum prior to their use. All data and programming, including any proprietary programs, shall be made available to EPA together with a

sensitivity analysis. The RI data shall be presented electronically according to U.S. EPA Region 5 format requirements. Analysis of data collected for site characterization will meet the DQOs developed in the FSP and included in the QAPP (or revised during the RI).

5. Risk Assessment

The Respondents shall conduct a baseline risk assessment to determine whether *site contaminants pose a current or potential risk to human health and the environment* in the absence of any remedial action. The Respondents shall address the contaminant identification, exposure assessment, toxicity assessment, and risk characterization. The Respondents shall incorporate future land use plans into the baseline assessment as available.

Respondents shall conduct a baseline human health risk assessment that focuses on actual and potential risks to persons coming into contact with on-site hazardous substances, pollutants or contaminants as well as risks to the nearby residential, recreational and industrial worker populations from exposure to hazardous substances, pollutants or contaminants in groundwater, soils, sediments, surface water, air, and ingestion of contaminated organisms in nearby, impacted ecosystems. The human health risk assessment shall define central tendency and reasonable maximum estimates of exposure for current land use conditions and reasonable future land use conditions. The human health risk assessment shall use data from the Site and nearby areas to identify the contaminants of concern (COC), provide an estimate of how and to what extent human receptors might be exposed to these COCs, and provide an assessment of the health effects associated with these COCs. The human health risk assessment shall project the potential risk of health problems occurring if no cleanup action is taken at the Site and/or nearby areas, and establish target action levels for COCs (carcinogenic and non-carcinogenic).

Respondents shall conduct the human health risk assessment in accordance with U.S. EPA guidance including, at a minimum: "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part A)," Interim Final (EPA-540-1-89-002)," OSWER Directive 9285.7-01A; December 1, 1989; and as appropriate "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)," Interim, (EPA 540-R-97-033), OSWER 9285.7-01D, January, 1998.

Respondents shall also conduct the human health risk assessment, as appropriate, in accordance with the following additional guidance found in the following U.S. EPA OSWER directives:

- 1) "Clarification to the 1994 Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities," OSWER Directive 9200.4-27; August, 1998,
- 2) "Implementation of the Risk Assessment Guidance for Superfund (RAGS) Volume I - Human Health Evaluation Manual, (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments) (Interim)," OSWER Directive 9285.7-01D-1; December 17, 1997,
- 3) "Soil Screening Guidance: Technical Background Document," OSWER Directive 9355.4-17A; May 1, 1996 and "Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites, OSWER Directive 9355.4 {24; March 2001},
- 4) "Soil Screening Guidance: User's Guide," Publication 9355.4-23; April, 1996,
- 5) "Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities," OSWER Directive 9355.4-12; July 14, 1994,
- 6) "Guidance Manual for the Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children," Publication 9285.7-15-1; February, 1994, and associated, clarifying Short Sheets on IEUBK Model inputs, including but not limited to OSWER 9285.7-32 through 34, as listed on the OSWER lead internet site at www.epa.gov/superfund/programs/lead/prods.htm,
- 7) "Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children," Version 0.99D, NTIS PB94-501517, 1994 or "Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children," Windows© version, 2001,
- 8) "Risk Assessment Guidance for Superfund: Volume I - Human Health Evaluation Manual: (Part B, Development of Risk-based Preliminary Remediation Goals)," Interim, OSWER Directive 9285.7-01B; December, 1991,
- 9) "Human Health Evaluation Manual, Supplemental Guidance: Standard Default Exposure Factors," OSWER Directive 9285.6-03; March 25, 1991, and
- 10) "Exposure Factors Handbook," Volumes I, II, and III; August 1997 (EPA/600/P-95/002F a,b,c).

Respondents shall also comply with the guidance on assessing human health risk associated with adult exposures to lead in soil as found in the following document: "Recommendations of the Technical Review Workgroup for Lead for an Interim Approach to Assessing Risks Associated with Adult Exposures to Lead in Soil," December, 1996. This document may be downloaded from the Internet at the following address: www.epa.gov/superfund/programs/lead/prods.htm.

Respondents shall also comply with the "Superfund Lead- Contaminated Residential Sites Handbook," December 2002 by the EPA Lead Sites Workgroup.

Additional applicable or relevant guidance may be used only if approved by U.S. EPA.

Respondents shall prepare the Human Health Risk Assessment according to the guidelines outlined below:

- Hazard Identification (sources) - The Respondents shall review available information on the hazardous substances present at the site and identify the major contaminants of concern.
- Dose-Response Assessment. Contaminants of concern should be selected based on their intrinsic toxicological properties.
- Prepare Conceptual Exposure/Pathway Analysis - Critical exposure pathways (e.g., drinking water) shall be identified and analyzed. The proximity of contaminants to exposure pathways and their potential to migrate into critical exposure pathways shall be assessed.
- Characterization of Site and Potential Receptors - The Respondents shall identify and characterize human populations in the exposure pathways.
- Exposure Assessment - The exposure assessment will identify the magnitude of actual or potential human exposures, the frequency and duration of these exposures, and the routes by which receptors are exposed. The exposure assessment shall include an evaluation of the likelihood of such exposures occurring and shall provide the basis for the development of acceptable exposure levels. In developing the exposure assessment, The Respondents shall develop central tendency and reasonable maximum estimates of exposure for both current land use conditions and potential future land use conditions at the site.
- Risk Characterization - During risk characterization, chemical-specific toxicity information, combined with quantitative and qualitative information from the exposure assessment, shall be compared to measured levels of contaminant exposure levels and the levels predicted through environmental fate and transport modeling. These comparisons shall determine whether concentrations of contaminants at or near the site are affecting or could potentially affect human health.

- Identification of Limitations/Uncertainties - The Respondents shall identify critical assumptions and uncertainties in the report.
- Conceptual Site Model - Based on contaminant identification, exposure assessment, toxicity assessment, and risk characterization, the Respondent(s) shall update the conceptual model of the site that was developed in the Technical Letter Report. The Conceptual Site Model will recognize any institutional controls that may be proposed at the Site.
- Final Human Health Risk Assessment Report - After the draft Human Health Risk Assessment Report has been reviewed and commented on by EPA, The Respondents will incorporate EPA comments and submit the final Human Health Risk Assessment Report.

Respondents shall conduct the ecological risk assessment in accordance with U.S. EPA guidance including, at a minimum: "Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments, (EPA-540-R-97-006, June 1997), OSWER Directive 9285.7-25.

Ecological Risk Assessment - The Respondents shall evaluate and assess the risk to the environment posed by site contaminants.

Final Ecological Risk Assessment Report - After the draft Ecological Risk Assessment Report has been reviewed and commented on by EPA, The Respondents will incorporate EPA comments and submit the final Ecological Risk Assessment Report.

TASK 4: REMEDIAL INVESTIGATION (RI) REPORT

- A. The Final RI/FS Planning documents will contain the schedule for submission of the RI Report, Risk Assessment Reports, Treatability Study Reports, Feasibility Study Reports, and all other deliverables deemed appropriate by U.S. EPA.
- B. Based upon that final approved schedule, the Respondents shall submit to EPA an RI Report addressing the entire Site and nearby areas.
- C. The RI Report shall be consistent with the Administrative Order on Consent and this SOW.
- D. The RI Report shall accurately establish the site characteristics such as media contaminated and extent of contamination. Pursuant to this objective, the Respondents shall obtain only the essential amount of detailed data necessary to determine the key contaminant(s) movement and extent of contamination.

- E. The key contaminant(s) must be selected based on persistence and mobility in the environment and the degree of hazard.
- F. The key contaminant(s) identified in the RI shall be evaluated for receptor exposure and an estimate of the key contaminant(s) level reaching human or environmental receptors must be made.
- G. The Respondents shall use the results of the Risk Assessment along with existing standards and guidelines such as drinking-water standards, water-quality criteria, and other criteria accepted by the EPA as appropriate for the situation to evaluate effects on human receptors who may be exposed to the key contaminant(s) above appropriate standards or guidelines.
- H. Respondents shall complete the RI Report in accordance with the following provisions:

The Respondents shall submit an RI Report to U.S. EPA for review and approval pursuant to Section III, with a copy to WDNR, which includes the following provisions, as appropriate:

1. Executive Summary

2. Site Background

The Respondents shall assemble and review available facts about the regional conditions and conditions specific to the Site under investigation.

3. Investigation -

- A. Field Investigation & Technical Approach
- B. Chemical Analysis & Analytical Methods
- C. Field Methodologies

- Biological
- Surface Water
- Sediment
- Soil Boring
- Soil Sampling
- Monitoring Well Installation
- Groundwater Sampling
- Hydrogeological Assessment
- Air Investigations

4. Site Characteristics

- Geology
- Hydrogeology
- Meteorology

- Demographics and Land Use
5. Ecological Assessment
 6. Nature and Extent of Contamination
 - Contaminant Sources
 - Contaminant Distribution and Trends
 - Fate and Transport
 - Contaminant Characteristics
 - Transport Processes
 - Contaminant Migration Trends
 7. Human Risk Assessment
 - Hazard Identification (sources)
 - Dose-Response Assessment
 - Prepare Conceptual Exposure/Pathway Analysis
 - Characterization of Site and Potential Receptors
 - Exposure Assessment
 - Risk Characterization
 - Identification of Limitations/Uncertainties
 - Site Conceptual Model
 8. Ecological Risk Assessment
 - Hazard Identification (sources)
 - Dose-Response Assessment
 - Prepare Conceptual Exposure/Pathway Analysis
 - Characterization of Site and Potential Receptors
 - Select Chemicals, Indicator Species, and End Points
 - Exposure Assessment
 - Toxicity Assessment/Ecological Effects Assessment
 - Risk Characterization
 - Identification of Limitations/Uncertainties
 - Site Conceptual Model
 9. Summary and Conclusions

TASK 5: TREATABILITY STUDIES

1. If U.S. EPA determines that treatability testing is necessary, the Respondents shall conduct treatability studies as follows. In addition, if applicable, the Respondents shall use the testing results and operating conditions in the detailed design of the selected

remedial technology. The Respondents shall perform the following activities.
Determine Candidate Technologies and of the Need for Testing

The Respondents shall submit a Candidate Technologies and Testing Needs Technical Memorandum, subject to U.S. EPA and WDNR review and U.S. EPA approval, that identifies candidate technologies for a treatability studies program. The Respondents shall submit the technical memorandum as early as project planning (Task 1) and no later than at the time of submittal of the draft RI Report to avoid any potential delays in the FS. The list of candidate technologies shall cover the range of technologies required for alternatives analysis. The Respondents shall determine and refine the specific data requirements for the testing program during Site characterization and the development and screening of remedial alternatives.

2. Conduct Literature Survey and Determine the Need for Treatability Testing

The Respondents shall conduct a literature survey to gather information on the performance, relative costs, applicability, removal efficiencies, operation and maintenance (O&M) requirements, and implementability of candidate technologies. If the Respondents have not sufficiently demonstrated practical candidate technologies, or if such technologies cannot be adequately evaluated for this Site on the basis of the available information, the Respondents shall conduct treatability testing. If U.S. EPA determines that treatability testing is necessary, and the Respondents cannot demonstrate to U.S. EPA's satisfaction that such testing is unnecessary, then the Respondents shall submit a statement of work to U.S. EPA and WDNR that outlines the steps and the data necessary to evaluate and initiate the treatability testing program within 30 days of a request of the U.S. EPA.

3. Evaluate Treatability Studies

Once a decision has been made to perform treatability studies, U.S. EPA will decide on the type of treatability testing to use (e.g., bench versus pilot). Because of the time required to design, fabricate, and install pilot scale equipment as well as perform testing for various operating conditions, the decision to perform pilot testing will be made as early in the process as possible to minimize potential delays of the FS. To assure that a treatability testing program is completed on time, and with accurate results, within 30 days of a request by U.S. EPA, the Respondents shall either submit a separate Treatability Testing Work Plan and SAP, or amendments to the original RI/FS Work Plan, FSP, QAPP for U.S. EPA and WDNR review and U.S. EPA approval.

4. Treatability Testing and Deliverables

A. Treatability Testing Work Plan and Sampling and Analysis Plan (SAP)

Within 90 days of a request of U.S. EPA, the Respondents shall prepare a Treatability Testing Work Plan and a SAP, or amendments to the original RI/FS

Work Plan, FSP and QAPP for U.S. EPA and WDNR review and U.S. EPA approval that describes the Site background, the remedial technology(ies) to be tested, test objectives, experimental procedures, treatability conditions to be tested, measurements of performance, analytical methods, data management and analysis, health and safety, and residual waste management. The Respondents shall document the DQOs for treatability testing as well. If pilot scale treatability testing is to be performed, the Treatability Study Work Plan shall describe pilot plant installation and start-up, pilot plant operation and maintenance procedures, operating conditions to be tested, a sampling plan to determine pilot plant performance, and a detailed health and safety plan. If testing is to be performed off-Site, the plans shall address all permitting requirements. The requirements of FSPs and QAPP are outlined in Task 1, Section 3 of this SOW.

B. Treatability Study Health and Safety Plan

If the original Health and Safety Plan is not adequate for defining the activities to be performed during the treatability tests, the Respondents shall submit a separate or amended Health and Safety Plan. Task 1, Section 3.B.v of this SOW provides additional information on the requirements of the Health and Safety Plan. U.S. EPA and WDNR review, but do not "approve" the Treatability Study Health and Safety Plan.

C. Treatability Study Evaluation Report

Following the completion of the treatability testing, the Respondents shall analyze and interpret the testing results in a technical report to U.S. EPA and WDNR. Respondents shall submit the treatability study report according to the schedule in the Treatability Study Work Plan. This report may be a part of the RI Report or submitted as a separate deliverable. The Treatability Study Evaluation Report shall evaluate each technology's effectiveness, implementability and cost, and actual results as compared with predicted results. The report shall also evaluate full scale application of the technology, including a sensitivity analysis identifying the key parameters affecting full-scale operation.

TASK 6: DEVELOPMENT AND SCREENING OF ALTERNATIVES (Technical Memorandum)

The Respondents shall develop and screen remedial alternatives to determine an appropriate range of waste management options that the Respondents shall evaluate. This range of alternatives shall include, as appropriate, options in which treatment is used to *reduce the toxicity, mobility, or volume of wastes, but which vary in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are managed*; options involving containment with little or no treatment; options involving both

treatment and containment; and a no-action alternative. The Respondents shall perform the following activities as a function of the development and screening of remedial alternatives.

A. Alternatives Development and Screening Deliverables

The Respondents shall prepare and submit three technical memoranda for this task: a Remedial Action Objectives Technical Memorandum, an Alternative Screening Technical Memorandum and a Comparative Analysis of Alternatives Memorandum. These memos can be combined into a single memo as appropriate.

1. Remedial Action Objectives Technical Memorandum

The Respondents shall submit a Remedial Action Objectives Technical Memorandum to WDNR and U.S. EPA for review and approval. The Respondents shall submit the Remedial Action Objectives Technical Memorandum at the same time as the Draft RI Report. Based on the baseline human health and ecological risk assessments, the Respondents shall document the Site-specific remedial action objectives in a Remedial Action Objectives Technical Memorandum. The remedial action objectives shall specify the constituents of concern and the media of interest; exposure pathways and receptors; and an acceptable contaminant level or range of levels (at particular locations for each exposure route). The Respondents shall incorporate U.S. EPA's comments on the Remedial Action Objectives Technical Memorandum in the Alternatives Screening Technical Memorandum.

2. Alternatives Screening Technical Memorandum

The Respondents shall submit an Alternatives Screening Technical Memorandum to WDNR and U.S. EPA for review and approval. The Alternatives Screening Technical Memorandum shall summarize the work performed during and the results of each of the above tasks, and shall include an alternatives array summary. If required by U.S. EPA, the Respondents shall modify the alternatives array to assure that the array identifies a complete and appropriate range of viable alternatives to be considered in the detailed analysis. The Alternatives Screening Technical Memorandum shall document the methods, the rationale and the results of the alternatives screening process. The Respondents shall incorporate U.S. EPA's comments on the Alternatives Screening Technical Memorandum in the Comparative Analysis of Alternatives Technical Memorandum. The Respondents shall submit the Alternatives Screening Technical Memorandum within 45 calendar days after receipt of U.S. EPA's comments on the Remedial Action Objectives Technical Memorandum and should include:

a. Develop General Response Actions

- In the Alternatives Screening Technical Memorandum, the Respondents shall develop general response actions for each medium of interest including containment, treatment, excavation, pumping, or other actions, singly or in combination, to satisfy the U.S. EPA-approved remedial action objectives.

b. Identify Areas or Volumes of Media

In the Alternatives Screening Technical Memorandum, the Respondents shall identify areas or volumes of media to which the general response actions may apply, taking into account requirements for protectiveness as identified in the remedial action objectives. The Respondents shall also take into account the chemical and physical characterization of the Site.

c. Identify, Screen, and Document Remedial Technologies

In the Alternatives Screening Technical Memorandum, the Respondents shall identify and evaluate technologies applicable to each general response action to eliminate those that cannot be implemented at the Site.

The Respondents shall refine applicable general response actions to specify remedial technology types. The Respondents shall identify technology process options for each of the technology types concurrently with the identification of such technology types or following the screening of considered technology types. The Respondents shall evaluate process options on the basis of effectiveness, implementability, and cost factors to select and retain one or, if necessary, more representative processes for each technology type. The Respondents shall summarize and include the technology types and process options in the Alternatives Screening Technical Memorandum. Whenever practicable, the alternatives shall also consider the CERCLA preference for treatment over conventional containment or land disposal approaches.

In the Alternatives Screening Technical Memorandum Respondents shall provide a preliminary list of alternatives to address contaminated soil, sediments, surface water, groundwater, and air contamination at the Site that shall consist of, but is not limited to, treatment technologies, removal and off-site treatment/disposal, removal and on-site disposal, and in-place containment for soils, sediments, and wastes. See 40 CFR 300.430(e) (1)-(7). The Respondents shall specify the reasons for eliminating any alternatives.

d. Assemble and Document Alternatives

The Respondents shall assemble the selected representative technologies into alternatives for each affected medium or operable unit. Together, all of the alternatives shall represent a range of treatment and containment combinations that shall address either the Site or the operable unit as a whole. The Respondents shall prepare a summary of the assembled alternatives and their related ARARs for the Alternatives Screening Technical Memorandum. The Respondents shall specify the reasons for eliminating alternatives during the preliminary screening process.

e. Refine Alternatives

The Respondents shall refine the remedial alternatives to identify the volumes of contaminated media addressed by the proposed processes and size critical unit operations as necessary. The Respondents shall collect sufficient information for an adequate comparison of alternatives. The Respondents shall also modify the remedial action objectives for each chemical in each medium as necessary to incorporate any new human health and ecological risk assessment information presented in the Respondents' baseline human health and ecological risk assessment reports. Additionally, the Respondents shall update ARARs as the remedial alternatives are refined.

3. Comparative Analysis of Alternatives Memorandum

The Respondents shall prepare a Comparative Analysis of Alternatives Memorandum that summarizes the results and reasoning employed in screening; arrays the alternatives that remain after screening; and identifies the action-specific ARARs for the alternatives that remain after screening. The Respondents may perform a final screening process based on short and long term aspects of effectiveness, implementability, and relative cost. Generally, this screening process is only necessary when there are many feasible alternatives available for a detailed analysis. If necessary, the Respondents shall conduct the screening of alternatives to assure that only the alternatives with the most favorable composite evaluation of all factors are retained for further analysis. As appropriate, the screening shall preserve the range of treatment and containment alternatives that was initially developed. The range of remaining alternatives shall include options that use treatment technologies and permanent solutions to the maximum extent practicable.

TASK 7: DETAILED ANALYSIS of ALTERNATIVES (FS REPORT)

The Respondents shall conduct and present a detailed analysis of remedial alternatives to provide U.S. EPA with the information needed to select a Site remedy.

A. Detailed Analysis of Alternatives

The Respondents shall conduct a detailed analysis of the remedial alternatives for the Site. The detailed analysis shall include an analysis of each remedial option against a set of nine evaluation criteria, and a comparative analysis of all options using the same nine criteria as a basis for comparison.

1. Apply Nine Criteria and Document Analysis

The Respondents shall apply the nine evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will protect human health and the environment and meet remedial action objectives; will comply with, or include a waiver of, ARARs; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The evaluation criteria include: (1) overall protection of human health and the environment and how the alternative meets each of the remedial action objectives; (2) compliance with ARARs; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; (7) cost; (8) state (or support agency) acceptance; and (9) community acceptance. (Note: criteria 8 and 9 are considered after the RI/FS report has been released to the general public.) For each alternative the Respondents shall provide: (1) A description of the alternative that outlines the waste management strategy involved and identifies the key ARARs associated with each alternative, and (2) A discussion of the individual criterion assessment. If the Respondents do not have direct input on criteria (8) state (or support agency) acceptance and (9) community acceptance, U.S. EPA will address these criteria.

2. Compare Alternatives Against Each Other and Document the Comparison of Alternatives

The Respondents shall perform a comparative analysis between the remedial alternatives. That is, the Respondents shall compare each alternative against the other alternatives using the evaluation criteria as a basis of comparison. U.S. EPA will identify and select the preferred alternative. The Respondents shall prepare a Comparative Analysis of Alternatives Technical Memorandum which summarizes the results of the comparative analysis and fully and satisfactorily addresses and incorporates U.S. EPA's comments on the Alternatives Screening Technical Memorandum. The Respondents shall incorporate U.S. EPA's comments on the Comparative Analysis of Alternatives Technical Memorandum in the draft FS Report. The Respondents shall submit the Comparative Analysis of Alternatives Memorandum within 45 calendar days

after receipt of U.S. EPA's comments on the Alternatives Screening Technical Memorandum.

B. Feasibility Study Report

Within 90 days after receipt of U.S. EPA's comments on the Comparative Analysis of Alternatives Technical Memorandum, the Respondents shall prepare and submit a draft FS Report to U.S. EPA for its review pursuant to Section 2 with a copy to WDNR. The FS report shall summarize the development and screening of the remedial alternatives and present the detailed analysis of remedial alternatives. In addition, the FS Report shall also include the information U.S. EPA will need to prepare relevant sections of the Record of Decision (ROD) for the Site [see Chapters 6 and 9 of U.S. EPA's *A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents* (EPA 540-R-98-031, July 1999) for the information that is needed].

TASK 8: PROGRESS REPORTS

The Respondents shall submit monthly written progress reports to U.S. EPA and WDNR concerning actions undertaken pursuant to the AOC and this SOW, beginning 30 calendar days after the effective date of the AOC, until the termination of the AOC, or unless otherwise directed in writing by the RPM. As completion of the major investigation phases are completed, a reduction in the frequency of the Progress Reports will be considered. These reports shall include, but not be limited to:

- a description of all significant developments during the preceding period, including the specific work that was performed and any problems that were encountered;
- paper and electronic copies (formatted according to U.S. EPA specifications) and summary of the analytical data that was received during the reporting period; and
- the developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and actual or planned resolutions of past or anticipated problems.

The monthly progress reports will:

- summarize the field activities conducted each month
- problems encountered;
- solutions to problems;
- a description of any modifications to the procedures outlined in the RI/FS Work Plan, the FSP, QAPP or Health and Safety Plan, with justifications for the modifications; and
- upcoming field activities.

In addition, the Respondents shall provide the RPM or the entity designated by the RPM with all validated laboratory data no later than 120 days after samples are shipped for analysis.

EXHIBIT A PARTIAL LIST OF GUIDANCE

The following list, although not comprehensive, comprises many of the regulations and guidance documents that apply to the RI/FS process. The majority of these guidance documents, and additional applicable guidance documents, may be downloaded from the following websites:

<http://www.epa.gov/superfund/pubs.htm> (General Superfund)
<http://clu.in.org> (Site Characterization, Monitoring and Remediation)
<http://www.epa.gov/ORD/NRMRL/Pubs> (Site Characterization and Monitoring)
http://www.epa.gov/quality/qa_docs.html#guidance (Quality Assurance)
<http://www.epa.gov/fedfac/documents/qualityassurance.htm> (Quality Assurance)
<http://www.epa.gov/superfund/programs/risk/toolthh.htm> (Risk Assessment - Human)
<http://www.epa.gov/superfund/programs/risk/tooleco.htm> (Ecological Risk Assessment)
<http://www.epa.gov/superfund/programs/lead> (Risk Assessment - Lead)
<http://cfpub.epa.gov/ncea> (Risk Assessment - Exposure Factors/Other)
<http://www.epa.gov/nepis/srch.htm> (General Publications Clearinghouse)
<http://www.epa.gov/clariton/clhtml/pubtitle.html> (General Publications Clearinghouse)

1. The (revised) National Contingency Plan;
2. *Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA*, U.S. EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9355.3-01, EPA/540/G-89/004, October 1988.
3. *Conducting Remedial Investigations/Feasibility Studies for CERCLA Municipal Landfill Sites*, U.S. EPA, Office of Emergency and Remedial Response, EPA/540/P-91/001, February 1991.
4. *Implementing Presumptive Remedies*, U.S. EPA, Office of Emergency and Remedial Response, EPA-540-R-97-029, October 1997.
5. *Presumptive Remedy for CERCLA Municipal Landfill Sites*, U.S. EPA, OSWER Directive No. 9355.0-49FS, EPA-540-F-93-035, September 1993.
6. *Presumptive Remedies: CERCLA Landfill Caps RI/FS Data Collection Guide*, U.S. EPA, OSWER 9355.3-18FS, EPA/540/F-95/009, August 1995.
7. *Presumptive Response Strategy and Ex-Situ Treatment Technologies for Contaminated Ground Water at CERCLA Sites*, OSWER 9283.1-12, EPA-540-R-96-023, October 1996.

8. *Field Analytical and Site Characterization Technologies Summary of Applications*, U.S. EPA, EPA-542-F-97-024, November 1997.
9. *CLU-IN Hazardous Waste Clean-Up Information World Wide Web Site*, U.S. EPA, EPA-542-F-99-002, February 1999.
10. *Field Sampling and Analysis Technology Matrix and Reference Guide*, U.S. EPA, EPA-542-F-98-013, July 1998.
11. *Subsurface Characterization and Monitoring Techniques: A Desk Reference Guide*, Volumes 1 and 2, U.S. EPA, EPA/625/R-93/003, May 1993.
12. *Use of Airborne, Surface, and Borehole Geophysical Techniques at Contaminated Sites: A Reference Guide*, U.S. EPA, EPA/625/R-92/007(a,b), September 1993.
13. *Innovations in Site Characterization: Geophysical Investigation at Hazardous Waste Sites*, U.S. EPA, EPA-542-R-00-003, August 2000.
14. *Innovative Remediation and Site Characterization Technology Resources*, U.S. EPA, OSWER, EPA-542-F-01-026b, January 2001.
15. *Handbook of Suggested Practices for the Design and Installation of Ground-Water Monitoring Wells*, U.S. EPA, EPA/600/4-89/034, 1991.
16. *Ground-Water Sampling Guidelines for Superfund and RCRA Project Managers*, U.S. EPA, EPA-542-S-02-001, May 2002.
17. *Ground Water Issue: Low-Flow (Minimal Drawdown) Ground-Water Sampling Procedures*, U.S. EPA, EPA/540/S-95/504, April 1996.
18. *Superfund Ground Water Issue: Ground Water Sampling for Metals Analysis*, U.S. EPA, EPA/540/4-89/001, March 1989.
19. *Resources for Strategic Site Investigation and Monitoring*, U.S. EPA, OSWER, EPA-542-F-010030b, September 2001.
20. *Region 5 Framework for Monitored Natural Attenuation Decisions for Groundwater*, U.S. EPA Region 5, September 2000.
21. *Ground Water Issue: Suggested Operating Procedures for Aquifer Pumping Tests*, U.S. EPA, OSWER, EPA/540/S-93/503, February 1993.
22. *Technical Protocol for Evaluating Natural Attenuation of Chlorinated Solvents in Ground Water*, U.S. EPA, EPA/600/R-98/128, September 1998.

23. *Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action and Underground Storage Tank Sites*, U.S. EPA, OSWER Directive 9200.4-17P, April 21, 1999.
24. *Ground Water Issue: Fundamentals of Ground-Water Modeling*, U.S. EPA, OSWER, EPA/540/S-92/005, April 1992.
25. *Assessment Framework for Ground-Water Model Applications*, U.S. EPA, OSWER Directive #9029.00, EPA-500-B-94-003, July 1994.
26. *Ground-Water Modeling Compendium - Second Edition: Model Fact Sheets, Descriptions, Applications and Cost Guidelines*, U.S. EPA, EPA-500-B-94-004, July 1994.
27. *A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents*, U.S. EPA, Office of Solid Waste and Emergency Response, OSWER Directive No. 9200.1-23P, EPA 540-R-98-031, July 1999.
28. *Region 5 Instructions on the Preparation of A Superfund Division Quality Assurance Project Plan Based on EPA QA/R-5, Revision 0*, U.S. EPA Region 5, June 2000.
29. *Guidance for the Data Quality Objectives Process (QA-G-4)*, U.S. EPA, EPA/600/R-96/055, August 2000.
30. *Guidance for the Data Quality Objectives Process for Hazardous Waste Sites (QA/G-4HW)*, U.S. EPA, EPA/600/R-00/007, January 2000.
31. *Guidance for the Preparation of Standard Operating Procedures (QA-G-6)*, U.S. EPA, EPA/240/B-01/004, March 2001.
32. *EPA Requirements for Quality Management Plans (QA/R-2)*, U.S. EPA, EPA/240/B-01/002, March 2001.
33. *EPA Requirements for QA Project Plans (QA/R-5)*, U.S. EPA, EPA/240/B-01/003, March 2001.
34. *Guidance for Quality Assurance Project Plans (QA/G-5)*, U.S. EPA, EPA/600/R-98/018, February 1998.
35. *Users Guide to the EPA Contract Laboratory Program*, U.S. EPA, Sample Management Office, OSWER Directive No. 9240.0-01D, January 1991.
36. *Technical Guidance Document: Quality Assurance and Quality Control for Waste Containment Facilities*, U.S. EPA, EPA/600/R-93/182, 1993.
37. *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part A)*, U.S. EPA, EPA/540/1-89/002, December 1989.

38. *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remediation Goals)*, U.S. EPA, EPA/540/R-92/003, OSWER Publication 9285.7-01B, December 1991.
39. *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part C - Risk Evaluation of Remedial Alternatives)*, U.S. EPA, Office of Emergency and Remedial Response, Publication 9285.7-01C, October, 1991.
40. *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part D - Standardized Planning, Reporting, and Review of Superfund Risk Assessments)*, U.S. EPA, Office of Emergency and Remedial Response, Publication 9285.7-47, December 2001.
41. *Risk Assessment Guidance for Superfund: Volume III - Part A, Process for Conducting Probabilistic Risk Assessment*, U.S. EPA, OSWER Publication 9285.7-45, EPA-540-R-02-002, December 2001.
42. *Policy for Use of Probabilistic in Risk Assessment at the U.S. Environmental Protection Agency*, U.S. EPA, Office of Research and Development, 1997.
43. *Human Health Evaluation Manual, Supplemental Guidance: Standard Default Exposure Factors*, U.S. EPA, OSWER Directive 9285.6-03, March 25, 1991.
44. *Exposure Factors Handbook*, Volumes I, II, and III, U.S. EPA, EPA/600/P-95/002Fa,b,c, August 1997.
45. *Supplemental Guidance to RAGS: Calculating the Concentration Term*, U.S. EPA, OSWER Publication 9285.7-08I, May 1992.
46. *Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities*, U.S. EPA, OSWER Directive 9355.4-12, EPA/540/F-94/043, July 14, 1994.
47. *Clarification to the 1994 Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities*, U.S. EPA, OSWER Directive 9200.4-27, EPA/540/F-98/030, August 1998.
48. *Guidance Manual for the Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children*, U.S. EPA, OSWER Publication 9285.7-15-1, February 1994; and associated, clarifying Short Sheets on IEUBK Model inputs, including but not limited to OSWER 9285.7-32 through 34, as listed on the OSWER lead internet site at www.epa.gov/superfund/programs/lead/prods.htm.
49. *Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children*, Version 0.99D, NTIS PB94-501517, 1994 or *Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children*, Windows© version, 2001,

50. *Role of the Baseline Risk Assessment in Superfund Remedy Selection Decisions*, U.S. EPA, OSWER Directive 9355.0-30, April 22, 1991.
51. *Performance of Risk Assessments in Remedial Investigation /Feasibility Studies (RI/FSS) Conducted by Potentially Responsible Parties (PRPs)*, OSWER Directive No. 9835.15, August 28, 1990.
52. *Supplemental Guidance on Performing Risk Assessments in Remedial Investigation Feasibility Studies (RI/FSS) Conducted by Potentially Responsible Parties (PRPs)*, OSWER Directive No. 9835.15(a), July 2, 1991.
53. *Role of Background in the CERCLA Cleanup Program*, U.S. EPA, OSWER 9285.6-07P, April 26, 2002.
54. *Soil Screening Guidance: User's Guide*, U.S. EPA, OSWER Publication 9355.4-23, July 1996.
55. *Soil Screening Guidance: Technical Background Document*, U.S. EPA, EPA/540/R95/128, May 1996.
56. *Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites (Peer Review Draft)*, U.S. EPA, OSWER Publication 9355.4-24, March 2001.
57. *Ecological Risk Assessment Guidance for Superfund: Process for Designing & Conducting Ecological Risk Assessments*, U.S. EPA, OSWER Directive 9285.7-25, EPA-540-R-97-006, February 1997.
58. *Guidelines for Ecological Risk Assessment*, U.S. EPA, EPA/630/R-95/002F, April 1998.
59. *The Role of Screening-Level Risk Assessments and Refining Contaminants of Concern in Baseline Ecological Risk Assessments*, U.S. EPA, OSWER Publication 9345.0-14, EPA/540/F-01/014, June 2001.
60. *Ecotox Thresholds*, U.S. EPA, OSWER Publication 9345.0-12FSI, EPA/540/F-95/038, January 1996.
61. *Issuance of Final Guidance: Ecological Risk Assessment and Risk Management Principles for Superfund Sites*, U.S. EPA, OSWER Directive 9285.7-28P, October 7, 1999.
62. *Guidance for Data Usability in Risk Assessment (Quick Reference Fact Sheet)*, OSWER 9285.7-05FS, September, 1990.
63. *Guidance for Data Usability in Risk Assessment (Part A)*, U.S. EPA, Office of Emergency and Remedial Response, Publication 9285.7-09A, April 1992.

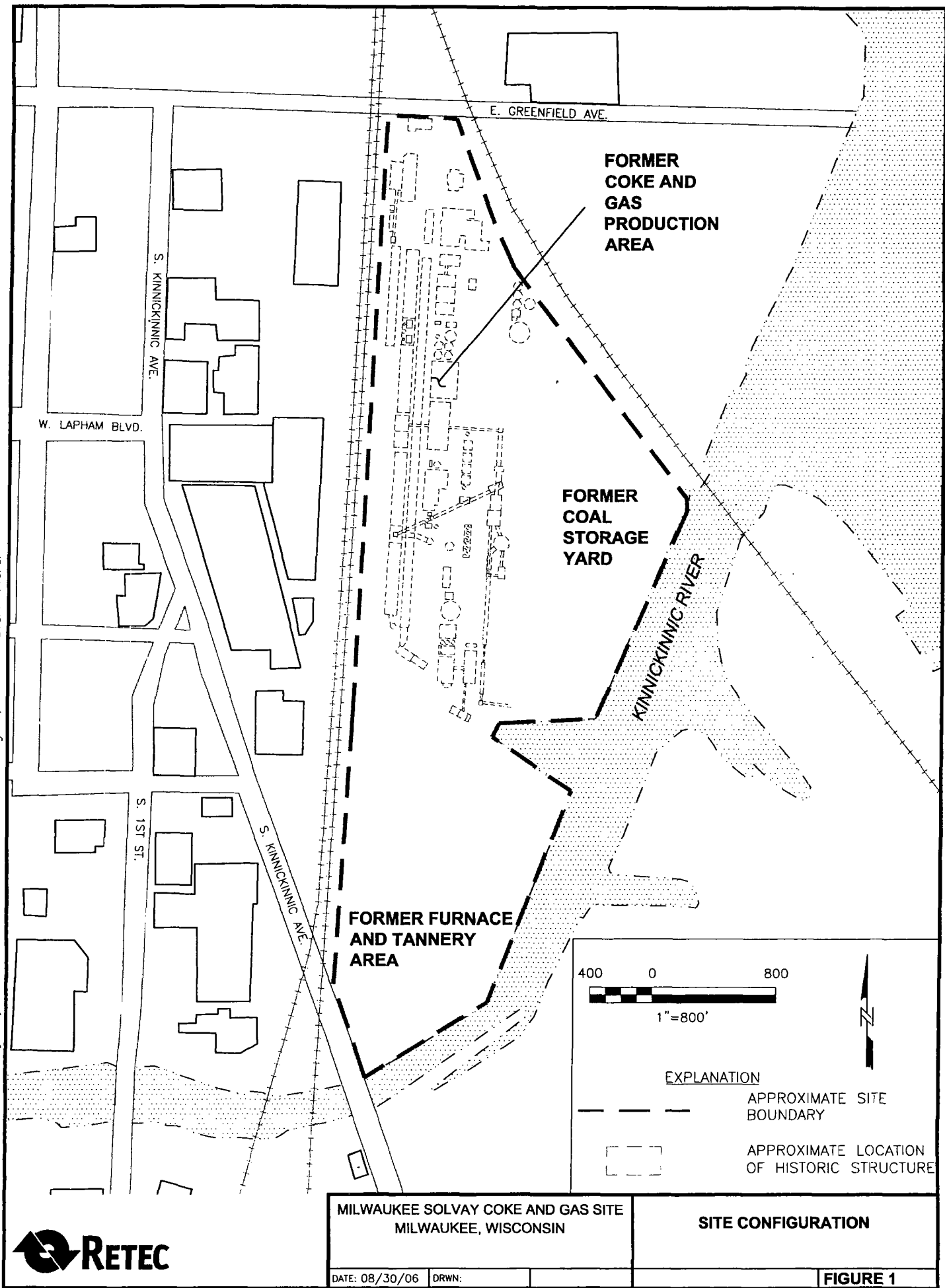
64. *Guide for Conducting Treatability Studies Under CERCLA*, U.S. EPA, EPA/540/R-92/071a, October 1992.
65. *CERCLA Compliance with Other Laws Manual, Two Volumes*, U.S. EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9234.1-01 and -02, EPA/540/G-89/009, August 1988.
66. *Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites*, U.S. EPA, Office of Emergency and Remedial Response, (Interim Final), OSWER Directive No. 9283.1-2, EPA/540/G-88/003, December 1988.
67. *Considerations in Ground-Water Remediation at Superfund Sites and RCRA Facilities - Update*, U.S. EPA, OSWER Directive 9283.1-06, May 27, 1992.
68. *Methods for Monitoring Pump-and-Treat Performance*, U.S. EPA, EPA/600/R-94/123, June 1994.
69. *Pump-and-Treat Ground-Water Remediation A Guide for Decision Makers and Practitioners*, U.S. EPA, EPA/625/R-95/005, July 1996.
70. *Ground-Water Treatment Technology Resource Guide*, U.S. EPA, OSWER, EPA-542-B-94/009, September 1994.
71. *Land Use in the CERCLA Remedy Selection Process*, U.S. EPA, OSWER Directive No. 9355.7-04, May 25, 1995.
72. *Reuse Assessments: A Tool To Implement The Superfund Land Use Directive*, U.S. EPA, OSWER 9355.7-06P, June 4, 2001.
73. *Reuse of CERCLA Landfill and Containment Sites*, U.S. EPA, OSWER 9375.3-05P, EPA-540-F-99-015, September 1999.
74. *Reusing Superfund Sites: Commercial Use Where Waste is Left on Site*, U.S. EPA, OSWER 9230.0-100, February 2002.
75. *Covers for Uncontrolled Hazardous Waste Sites*, U.S. EPA, EPA/540/2-85/002, 1985.
76. *Technical Guidance Document: Final Covers on Hazardous Waste Landfills and Surface Impoundments*, U.S. EPA, OSWER, EPA/530-SW-89-047, July 1989.
77. *Engineering Bulletin: Landfill Covers*, U.S. EPA, EPA/540/S-93/500, 1993.
78. *Principles for Managing Contaminated Sediment Risks at Hazardous Waste Sites*, U.S. EPA OSWER Directive 9285.6-08, February 12, 2002.

79. *Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups*, U.S. EPA, OSWER 9355.0-74FS-P, EPA/540-F-00-005, September 29, 2000.
80. *Health and Safety Requirements of Employees Employed in Field Activities*, U.S. EPA, Office of Emergency and Remedial Response, EPA Order No. 1440.2, July 12, 1981.
81. *OSHA Regulations in 29 CFR 1910.120*, Federal Register 45654, December 19, 1986.
82. *Standard Operating Safety Guides*, PB92-963414, June 1992.
83. *Community involvement in Superfund: A Handbook*, U.S. EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9230.0#3B June 1988; and OSWER Directive No. 9230.0-3C, January 1992.
84. EPA Region 5 Use of Institutional Controls in RCRA Corrective Action Waste Pesticides and Toxics Division. March 2000.
85. *Contaminated Sediment Remediation Guidance for Hazardous Waste Sites*, U.S. EPA, Office of Solid Waste and Emergency Response, OSWER 9355.0-85, EPA-540-R-05-012, December 2005.
86. Superfund Lead-Contaminated Residential Sites Handbook EPA 2003 OSWER 9285.7-50. August 2003.
87. *Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action*, U.S. EPA, Office of Solid Waste and Emergency Response, EPA/530/R-01/015, April 2004.
88. *Uniform Federal Policy for Implementing Environmental Quality Systems*, Intergovernmental Data Quality Task Force, EPA-505-F-03-001, DoD-DTIC ADA 395303, DOE-DOE/EH-0667, Version 2, March 2005
89. *Part 1: Uniform Federal Policy for Quality Assurance Project Plans (UFP-QAPP) Manual*, Intergovernmental Data Quality Task Force EPA-505-B-04-900A, DoD-DTIC ADA 427785, Version 1, March 2005
90. *Part 2A: Uniform Federal Policy for Quality Assurance Project Plans (UFP-QAPP) Workbook*, Intergovernmental Data Quality Task Force EPA-505-B04-900C, DoD-DTIC ADA 427486, Version 1, March 2005
91. *Part 2B: Quality Assurance/Quality Control (QA/QC) Compendium: Minimum QA/QC Activities*, Intergovernmental Data Quality Task Force EPA-505-B-04-900B, Version 1, March 2005

92. *Implementation of the Uniform Federal Policy for Quality Assurance Project Plans (UFP-QAPP) at Federal Facility Hazardous Waste Site*, U.S. EPA, Office of Solid Waste and Emergency Response, OSWER 9272.0-17, June 2005

93. *Applicability of the Uniform Federal Policy for Quality Assurance Project Plans (EPA 505-04-900A)*, U.S. EPA, Office of Solid Waste and Emergency Response, OSWER 9272.0-20

File: J:\9031\PROPOSAL\Site location.dwg Layout: ANSL_AVI-CP User: CMann Plotted: Aug 31, 2006 - 8:26am Xref's:

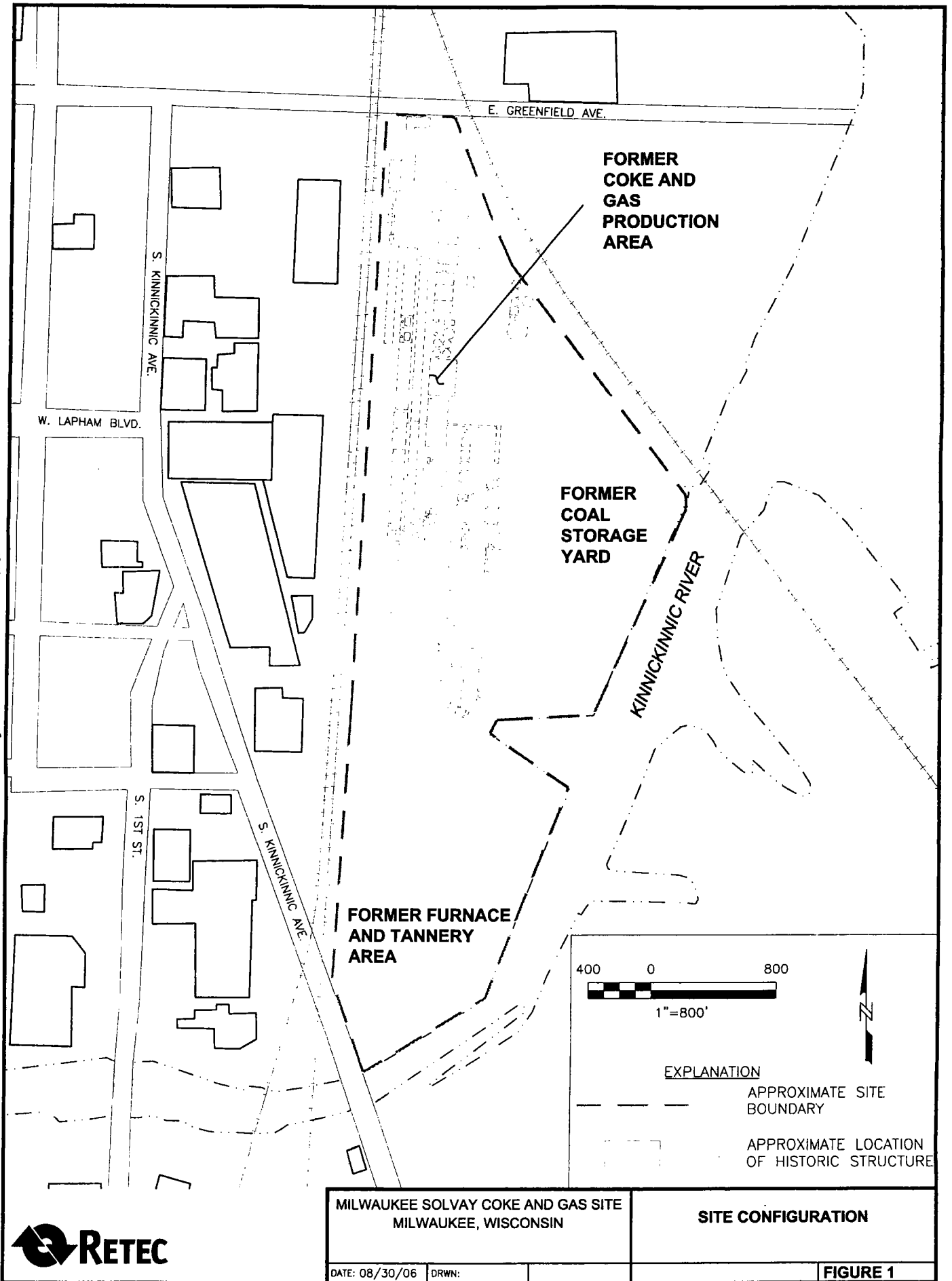


APPENDIX B

Milwaukee Solvay Coke & Gas Site

SITE MAP

File: J:\9031\PROPOSAL\Site location.dwg Layout: ANSL_AVI-CP User: CMann Plotted: Aug 31, 2006 - 8:26am Xref's:



APPENDIX C

Milwaukee Solvay Coke & Gas Site

NOTICE RECIPIENT for RESPONDENTS

APPENDIX C
Milwaukee Solvay Coke & Gas Site
NOTICE RECIPIENT for RESPONDENTS

American Natural Resources Company

Donald J. Patterson, Jr.
Beveridge & Diamond, P.C., Suite 700
1350 I Street, N.W.
Washington, D.C. 20005

Cliffs Mining Company

Joseph E. Tierney
Meissner Tierney Fisher & Nichols
111 East Kilbourn Avenue, 19th Floor
Milwaukee, WI 53202-6622

East Greenfield Investors, LLC

Susan M. Franzetti
Franzetti Law Firm, PC
10 South LaSalle Street, Suite 3600
Chicago, IL 60603

Maxus Energy Corporation

Sara Galley
1330 Lake Robbins Drive, Suite 400
The Woodlands, TX 77380

We Energies

Rachel A. Schneider
Quarles & Brady, LLP
411 East Wisconsin Avenue, Suite 2040
Milwaukee, WI 53202-4497